

S P E C I A L
R E P O R T
FROM THE
SELECT COMMITTEE
ON
MUNICIPAL PRIVILEGES (IRELAND)
BILL ;
TOGETHER WITH THE
PROCEEDINGS OF THE COMMITTEE,
MINUTES OF EVIDENCE,
AND APPENDIX.

Ordered, by The House of Commons, to be Printed,
19 May 1874.

MUNICIPAL PRIVILEGES (IRELAND) BILL

Tuesday, 28th April 1874.

Ordered, THAT the Bill be committed to a Select Committee.

Wednesday, 6th May 1874.

Ordered, THAT the Select Committee do consist of the following Members:—

Sir Michael Hicks Beach.	Mr. Leeson.
Marquis of Hartington.	Mr. D. Plunket.
Mr. Attorney General for Ireland.	Mr. Charles Lewis.
Mr. Butt.	Sir Colman O'Loughlin.
Mr. Goldney.	Mr. Gregory.

Ordered, THAT the Committee have power to send for Persons, Papers, and Records.*Ordered,* THAT Five be the Quorum of the Committee.

Thursday, 7th May 1874.

Ordered, THAT Mr. Power be added to the Committee.

Tuesday, 19th May 1874.

Ordered, THAT the Committee have leave to make a Special Report.*Ordered,* THAT the Committee have power to report the Minutes of Evidence taken before them to The House.

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R E P O R T.

THE SELECT COMMITTEE to whom the MUNICIPAL PRIVILEGES (IRELAND) BILL was referred, have considered the said Bill, and taken Evidence thereon, which they have agreed to report to the House ; and have gone through the Bill, and made Amendments thereunto.

S P E C I A L R E P O R T.

THE SELECT COMMITTEE to whom the MUNICIPAL PRIVILEGES (IRELAND) BILL was referred, have agreed to the following SPECIAL REPORT :—

THE Committee deem it right to call attention to Evidence taken by them on the position and duties of Sheriffs and Clerks of the Peace in the counties of cities and towns, and of the boroughs affected by the measure.

The Committee do not consider it to be within their province, in dealing with the Bill referred to them, to express any opinion upon this subject, but they think it right to say that the passing of the present Bill ought not to be regarded as in any way interfering with the judgment of Parliament upon the propriety of maintaining those smaller jurisdictions, or the office of the Clerk of the Peace, whenever that question may legitimately arise.

19 May 1874.

PROCEEDINGS OF THE COMMITTEE.

Friday, 8th May 1874.

MEMBERS PRESENT:

Mr. Attorney General for Ireland.	Mr. Butt.
Mr. Gregory.	Sir Michael Hicks Beach.
Mr. Goldney.	Sir Colman O'Loghlen.
Mr. Power.	

Sir MICHAEL HICKS BEACH was called to the Chair.

[Adjourned till Tuesday next, at Twelve o'clock.]

Tuesday, 12th May 1874.

MEMBERS PRESENT:

Sir MICHAEL HICKS BEACH in the Chair.

Mr. Attorney General for Ireland.	Sir Colman O'Loghlen.
Mr. D. Plunket.	Mr. Leeman.
Mr. Butt.	Mr. Gregory.
Mr. Power.	Marquis of Hartington.

Mr. Godfrey Lushington examined.

The Committee deliberated.

[Adjourned till Friday next, at Twelve o'clock.]

Friday, 15th May 1874.

MEMBERS PRESENT:

Sir MICHAEL HICKS BEACH in the Chair.

Mr. Attorney General for Ireland.	Mr. Gregory.
Mr. Butt.	Marquis of Hartington.
Sir Colman O'Loghlen.	Mr. Leeman.
Mr. Power.	Mr. Goldney.

Dr. W. Nelisse Hancock, Mr. Thomas de Molyneux, and Mr. David A. Nagle, were severally examined.

The Committee deliberated, and proceeded with the consideration of the Bill.

Preamble postponed.

Clauses 1—2, agreed to.

Clauses 3—4, amended, and agreed to.

Clause 5, agreed to.

Clause 6, postponed.

Clauses 7—8, disagreed to.

Clause 9, agreed to.

Clauses

Clauses 10-11, postponed.

Clause 12, disagreed to.

Clause 13, agreed to.

Clause 14, disagreed to.

[Adjourned till Tuesday next, at One o'clock.]

Tuesday, 19th May 1874.

MEMBERS PRESENT:

Sir MICHAEL HICKS BEACH in the Chair.

Mr. Attorney General for Ireland.	
Sir Colman O'Loghlen.	
Mr. D. Plunket.	
Mr. Butt.	
Mr. Leeman.	

Mr. Gregory.	
Mr. Goldney.	
Mr. Power.	
Marquis of Hartington.	

The Committee proceeded with the consideration of the Bill.

Postponed Clauses 6, 10, 11, amended, and agreed to.

A new Clause added to the Bill.

A new Clause read a first and second time as follows:—

"The right to supersede a sheriff which existed before the passing of this Act shall continue and apply to sheriffs appointed under the provisions of this Act, and may be exercised in the same manner as heretofore"—(Mr. Attorney General for Ireland)—
Question, That this Clause be added to the Bill, —put and negatived.

A new Clause read a first and second time as follows:—

"Sheriffs appointed under the provisions of this Act may be superseded by the Crown, in the same manner as sheriffs for counties can now be superseded"—(Sir Colman O'Loghlen).

Question put, That this Clause be added to the Bill.—The Committee divided:

Ayes, 8.
Mr. Attorney-General for Ireland.
Mr. Goldney.
Mr. Gregory.
Marquis of Hartington.
Mr. Leeman.
Sir Colman O'Loghlen.
Mr. D. Plunket.
Mr. Power.

No, 1.
Mr. Butt.

Preamble read, and agreed to.

Ordered, To report the Bill, with the Amendments, to the House.

SPECIAL REPORT proposed by the Chairman, read, amended, and agreed to.

Ordered, To report, together with Minutes of Evidence, and Appendix.

E X P E N S E S O F W I T N E S S .

N A M E of W I T N E S S .	PROFESSION or CONDITION.	Fees where summed.	Number of Days Absent from House under Orders of Committee.	Expenses of Journey to London and Back.	Allowance during absence from House.	TOTAL Expense allowed to Witness.
Dr. W. Nelson Hancock	Barrister	Dublin	5	£. s. d.	£. s. d.	£. s. d.

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Tuesday, 12th May 1874.

MEMBERS PRESENT:

Mr. Attorney General for Ireland.
 Sir M. Hicks Beach.
 Mr. Butt.
 Mr. Gregoire.
 Marquis of Hartington.

Mr. Leeman.
 Sir Colman O'Loghlen.
 Mr. D. Plunket.
 Mr. Power.

SIR MICHAEL HICKS BEACH, IN THE CHAIR.

Mr. GODFREY LUSHINGTON, called in; and Examined.

Chairman.

1. WHAT position do you occupy at the Home Office?—I am Counsel to the Home Office.

2. Are you acquainted with the provisions of the Bill which is now before the Committee?—Yes, I have read the Bill.

3. I will first ask you some questions with reference to the appointment of sheriffs; can you state to the Committee what is the system in England with regard to the appointment of sheriffs of counties?—Generally speaking, the sheriff, for whatever county he is appointed, exercises the same duties, but there are different modes of appointing sheriffs, according as the sheriff is sheriff for a county at large, or sheriff of a county of a town or of a county of a city, or sheriff for London and Middlesex.

4. This Bill, as you are aware, relates, with regard to sheriffs, only to sheriffs of counties of cities and towns?—Yes.

5. Therefore, that is the point to which I would direct your attention?—The simplest mode will be then, I think, to go back to the time before the passing of the Municipal Corporations Act. At that time there were a few boroughs or cities which had received the privilege by very ancient charter of being counties; I have a list of them here; they are not numerous.

6. Perhaps you will furnish the Committee with that list?—Yes, certainly.

7. How many are there?—There were 17.

8. Would you name them?—Yes, besides London, which was not within the Municipal Corporations Act, there was Bristol, Canterbury, Carmarthen, Chester, Exeter, Gloucester, Haverfordwest, Kingston-on-Hull, Lichfield, Lincoln,

Chairman—continued.

Newcastle-upon-Tyne, Norwich, Nottingham, Poole, Southampton, Worcester, and York. Then the Municipal Corporations Act, with respect to sheriffs, went on the principle of observing the status quo, except that there was in future to be only to be one sheriff, and he was to be elected by the town council. By the 61st section it was prescribed that all these places, together with the city of Oxford and the town of Berwick-upon-Tweed, which were added for reasons that I do not know, should have the power of every year appointing a fit person to execute the office of sheriff, with the like duties and powers as the sheriff, or the person filling the office of sheriff in the said towns and counties respectively, would have had if that Act had not passed. To complete this, I may state that the spending Act passed the next year, 6 & 7 Will. 4, c. 105, by sect. 5, fixed the day when the sheriff was to be appointed, and provided that he was to be appointed on the 9th November, immediately after the election of mayor, and he was, by the terms of that section, to hold his office until the appointment of his successor.

9. Before the passing of the Municipal Corporations Act, by whom were these sheriffs appointed?—That varied entirely according to the charter. The particulars will be found in the Report of the Commission which inquired into Municipal Corporations, in the year 1835, and I can read, if you like, a short summary of the matter which is contained in their Report. “The office of sheriff in a corporate town is the same as that exercised under the same name in the shires of the realm, and is found only in those cities and boroughs which are counties.”

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Mr. G.
 Lushington,
 12 May
 1874.

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Mr. G.
Lansdowne,
—
12 May
1874.

Chairman—continued.

In London, the sheriffs are chosen by the liverymen, from two lists, consisting of the aldermen and the nominees of the mayor, besides which any elector may name a candidate; at Carmarthen and Poole, they are chosen by the freemen from among themselves; at Bristol, Exeter, and Gloucester, by the common council, from themselves; in Canterbury, by the mayor and aldermen, from the citizens; at Haverfordwest, by the freemen, from the nominees of the common council; in Hull, by the freemen, from two persons nominated by the common council; in Southampton, practically, by the common council, from those who have served the subordinate office of bailiff; in Newcastle-upon-Tyne, by the mayor; in Lincoln, one is chosen by the common council, the other by the mayor elect, both from the freemen who have served the office of chamberlain. In no case is the sheriff of a corporate town nominated by the Crown. The election is always for a year. The sheriffs often have the care of the gaol, and the custody of prisoners confined there. They have the ordinary emoluments attached to the same office in counties, besides which, in some towns, they receive salaries. They usually perform the duties of the office by deputy."

10. Then, whatever the practice was before the Municipal Corporations Act, that Act placed the appointment of those sheriffs entirely in the hands of the town councils?—Yes.

11. Now, with respect to the duration of their office, can you give the Committee any information?—The only words fixing the duration of their office are the words which I have read in the Act amending the Municipal Corporations Act, 6 & 7 Will. 4, c. 105, s. 5, which declare that the sheriff shall be appointed annually, and when appointed, shall hold his office until the appointment of his successor.

12. There is an Act of Henry VIII. which says that they cannot hold longer than a year?—23 Hen. 8, c. 7, but it does not apply to sheriffs of counties of cities or towns.

Mr. Leman.

13. The Municipal Corporations Act makes it annual?—Certainly.

14. And in practice that is so in all municipal towns?—Quite so.

Chairman.

15. Perhaps you could state to the Committee what the legal difference is to the duration of office between the sheriff of the county of a city or town, and the sheriff of a county at large, is?—Certainly, and that will really throw light upon the matter. The sheriff for a county at large is nominated by the judges and officers of State; but he is appointed by the Crown, and the appointment is during pleasure. Looking at the warrant which is given to the sheriff, the form of it is prescribed in the schedule to 3 & 4 Will. 4, c. 90, you will see the appointment is during pleasure. Then the Acts to which Mr. Leman has referred, are the Acts 14 Edw. 2, stat. 1, c. 7, and 28 Edw. 3, c. 7, besides 23 Hen. 8, c. 7, which prohibit the sheriff from acting more than a year. There is also another Act, 12 Edw. 4, c. 1, which the sheriff is empowered after the expiration of his year of office, to hold on during Michaelmas and Hilary terms until his successor is appointed; and if the sheriff dies during the

Chairman—continued.

term of office, the Crown has the power by its prerogative of appointing his successor, and the under sheriff continues to exercise the office in the name of the deceased sheriff until the appointment of the new sheriff. This then raises the question what is really the meaning of the words in 5 & 7 Will. 4, c. 105, s. 5, "The sheriff of a county of a city or town shall hold his office until the appointment of his successor." Does it mean absolutely that he is to hold the office until the appointment of his successor, and that till then he is inviolable, or does it mean that he holds the office subject to any power that there may be to remove him, but that provided he is not removed he is to hold on until the appointment of his successor? According to the latter view the provision would correspond with the provision relating to the sheriff for the counties at large, which enables the sheriff notwithstanding the expiration of his year of office, to hold on during Hilary and Michaelmas terms, until his successor is appointed. I believe myself, that the latter is the correct meaning. You will observe that the principal Municipal Corporations Act, 5 & 6 Will. 4, c. 76, s. 61, declares that the sheriffs so appointed for counties or counties of towns shall have the like duties and powers as they would have had if the Act had not passed. Therefore, that releases you to the ancient charters. I have examined the Special Report by the Municipal Corporations Commissioners in 1855, as to the several counties, but the only one, so far as I have been able to discover with respect to which it was distinctly stated that the sheriff was removable, is the case of Haverfordwest. Within the last two days, with a view to obtain information on this subject, I wrote to three counties, amongst others to Mr. Leman's county of York, and I have this for an answer from York. "The first-mentioned Act, that is the Municipal Corporations Act, seems to contemplate an appointment for a year, and not during pleasure or good behaviour, and the terms of the resolution are framed accordingly. The duties and powers of the sheriff are not set out in the resolution, inasmuch as section 61 defines them. In like manner it is not expressed in the resolution, that the person appointed is to continue in office until his successor is appointed, for sect. 5 of 6 & 7 Will. 4, c. 105, declares that he shall so continue. But although the appointment is in terms for a year, there can be no doubt that the person appointed would be removable for malbehaviour, without any express limitation to that effect in the language of his appointment. I know, however, of no instance of the removal of a sheriff in this city."

Chairman.

16. Could you state by whom a sheriff would be removable under those circumstances?—I think by the same authority which appointed him.

17. By the town council?—By the town council. I have omitted to say that it appears that the resolution of the town council is uniform in these counties, and that it is always to this effect. I may hand in this, which I have received from York. "Copy resolution under the Municipal Corporations Act, and the Act amending the same of the council of the city of York, appointing the sheriff of the city at the annual meeting held on the 9th of November, under 5 & 6 Will. 4, c. 76, sect. 61, and 6 & 7 Will. 4, c. 105,

Chairman—continued.

c. 106, sect. 5.⁴ That A. B., of _____, Esq., be appointed to execute the office of sheriff of this city and county of the same for the ensuing year."

18. You referred to Haverfordwest, but I think only as an instance in which the charter allowed that the sheriff was removable, and not as an instance where the removal had actually occurred?—No, I do not know of an instance of a sheriff being removed, but I have inquired at the Council Office, and they do not know of any, and also at the Home Office, and there is no instance except with regard to London. I think Pulling, in his "Customs of the City of London," states that there have been several instances in early times; but the Commissioners who reported on municipal corporations, say that there is no modern instance.

19. Have you any other information on this point besides that which you read from York?—No, I think not.

20. Then I gather from your evidence that neither in the appointment of these sheriffs of counties of cities and of towns, nor in their removal has the Crown any power?—No power at all.

Mr. Attorney General for Ireland.

21. That is to say, it is to these towns mentioned in the Municipal Acts that you apply that to?—Yes.

22. But London is not in the Municipal Acts at all?—No, London is separate.

Chairman.

23. Then perhaps you could state to the Committee in what points the appointment of sheriffs of London and Middlesex differs?—The position of London and Middlesex is very anomalous; the sheriffship of both London and Middlesex was conferred on the corporation by an ancient charter for the payment of a sum rent. There are two sheriffs for London, and those two act conjointly as sheriff for Middlesex. Those two sheriffs are appointed by the liverymen of the companies. They are appointed annually, and it is stated in Pulling, that by a charter of John, the citizens of London could make sheriffs whom they would, and remove them when they would, and it is quite clear that there have in former times, but not in modern times, been instances of removals.

24. You gave the Committee a list of the counties of cities and towns in England which have this power of appointing the sheriff; could you also state the population of those places?—Yes.

25. Perhaps you will give that information to the Committee?—They vary very much in their population, because really it simply depends upon very ancient charters whether they were counties or not; I will read the list in alphabetical order; Berwick-upon-Tweed has 13,382 by the Census of 1871, Bristol 182,000, Canterbury 20,962, Carmarthen 10,488, Chester 33,257, Exeter 24,650, Gloucester 18,330, Haverfordwest 6,632, Kingston-upon-Hull 121,892, Lichfield 7,847, Lincoln 26,766, Newcastle-upon-Tyne 123,443, Norwich 80,385, Nottingham 86,821, Oxford 31,404, Poole 10,097, Southampton 53,741, Worcester 33,226, York 43,795; therefore the lowest would be Haverfordwest and Lichfield with 6,000 and 7,000 respectively, and the highest,

68,650.

Chairman—continued.

exclusive of London, would be Bristol, with 182,000; Coventry was also in the list, but by s. 5 & 6 Vict. c. 110, it has been re-anexed to the county of Warwick.

26. Now, can you tell the Committee what duties the sheriffs perform in these counties of cities?—Well, I believe that they perform the same duties as sheriffs in counties at large, but that observation is made subject to whatever special rights or privileges they may have, according to their ancient charters; I have only been able to ascertain one instance of difference, and that is in the case of Oxford. Oxford had not sheriffs before the Municipal Corporations Act. If you remember, I said that in s. 5 & 6 Will. 4, c. 76, s. 61, which confirms the appointment of sheriffs on the council, Oxford and Berwick were added to the others, which had sheriffs before that Act, and it appears it has been decided in the law courts that the sheriff for Oxfordshire still exercises jurisdiction in the city of Oxford, so far as executing the process of the superior courts, and that the sheriff of Oxford has the privileges of the old bailiff there, but in other respects the sheriff of a county or town, I believe, stands in the same position as the sheriff of a county. He executes the writs, he summons the jury, he is the returning officer, and he has various other duties.

27. I was going to ask whether he does not act as returning officer of Parliamentary elections?—Quite so.

28. For the city or town of which he is sheriff?—Quite so, and he attends the judges.

29. But for the purposes of the county elections most of those places are included in the surrounding counties, are they not?—Yes, by the 2 Will. 4, c. 45, s. 17, Schedule 9.

Mr. Gregory.

30. Does he attend the borough sessions?—Yes, he does.

Chairman.

31. There are, I think, some few of those cases which you have named, in which the freeholders of those counties of cities still vote for the counties of the cities, and not for the counties which surround them?—There are some.

32. Can you state which they are?—No, I cannot; there are 13 of the number which are included in the adjoining counties for the purpose of Parliamentary representation; I have the list, and by comparing it with the complete list of counties of cities and towns I could make out the difference, but I have not done so.

33. Perhaps you will tell us which those are?—The 13 counties of cities and towns which are included in the adjoining counties at large for the purpose of Parliamentary representation, are Carmarthen, Canterbury, Chester, Coventry, Gloucester, Kington-on-Hull, Lincoln, London, Newcastle-on-Tyne, Poole, Worcester, York, and Southampton.

34. Under what statute is that?—The 2 Will. 4, c. 45, s. 17.

Mr. Butt.

35. That is the Reform Bill?—Yes.

Chairman.

36. Have any difficulties arisen owing to these small jurisdictions with regard to sheriffs?—None that I know of.

A 2

Mr. G.
Washington,
12 May
1874.

37. Has

Mr. G.
Leesington,
10 May
1874.

Chairman—continued.

37. Has any proposal been made to alter them? —No; you see the duties of sheriff, except on certain ceremonial occasions, are chiefly done by deputy, and therefore it is comparatively immaterial, so long as you have a trustworthy deputy, whether the sheriff is the sheriff of the county at large or of the county of the town.

38. What is the practice with regard to the administration of justice in these instances of cities and towns, with regard to the holding of assizes for instance? —The places where assizes are held can be altered by Order in Council under 3 & 4 Will. 4, c. 71; there is also a special Act which enables all causes of action arising and offences committed in a county corporate to be tried in the next adjoining county at large, subject to certain local exceptions, most of which are now removed by the Municipal Corporations Act, s. 109.

39. Can you state the Act? —38 Geo. 3, c. 52.

40. Then these places do not have separate assizes? —Oh, yes, they may have, certainly.

41. But do they? —I could not say which have and which have not.

Mr. Attorney General for Ireland.

42. Is there a separate writ or commission to the judge upon going into the town of Gloucester, for instance, from what he takes for the county? —I have no doubt there is.

43. There is in Ireland? —If the assizes were not to be held in the town, then all the cases from this small county of a town would be taken and tried in the adjoining county under this Act.

Mr. Gregory.

44. Is there any such thing as separate sittings at the assizes, like the sittings at London and at Middlesex? —I am not aware how it is in each place.

Mr. Leesons.

45. Are you aware of anything in the powers exercised by the sheriffs of the counties of cities different from those exercised by the sheriff of the county at large? —I am not.

46. Well, in fact there is a separate commission for the city of York? —Yes.

47. The judges sit there and try in the city? —Quite so.

48. There is a separate grand jury? —Yes.

49. The sheriff summons both the grand jury and the common jury; the jurisdiction exercised is of a capital character, precisely the same as in the county? —Precisely; the fact that the city is a county is the cause of all that.

50. All the powers exercised as sheriff of a county are given to the sheriff of a city? —Yes.

51. This alteration was made by the Municipal Act of nearly 40 years ago; the power given to the town council to appoint their sheriff was given by that Act? —Yes.

52. And I think I understand you to say that you have never heard any complaint as to the exercise of the jurisdiction of these sheriffs? —No.

Mr. Gregory.

53. Will you allow me to ask a question with reference to that previous question as to separate sittings; I understand you to say that there were separate commissions in the case of York? —Yes.

54. Are those commissions opened on separate days? —I do not know; I have not had personal

Mr. Gregory—continued.

experience of it. But the town of Nottingham is as much a county as Nottinghamshire is.

55. Are you acquainted with the difference, if any, in these matters between the counties of cities in Ireland as compared with England? —No, I am not.

Mr. Attorney General for Ireland.

56. When the corporation appoint, is the sheriff gazetted in the Gazette? —No, I believe not.

57. Is there any return to the Home Office at all about it? —I believe not.

Mr. Leesons.

58. The publicity of the appointment is complete, is it not? —Certainly; there is a resolution of the town council.

* 59. I think you told us that the second Act of Parliament to which you referred makes the appointment to continue till his successor shall be appointed? —Yes.

60. I do not know whether you remember what gave rise to that? —No, I do not; I tried to find out, but I could not.

61. Well, but would it surprise you to find that it arose from the circumstance that a sheriff sometimes, when he is appointed, may not choose to take upon him the office, and that then if there were not the second Act of Parliament there would be no sheriff, seeing that his appointment had been only for a year? —Yes.

62. Well, but that may account for the provision which makes it his election in truth to continue for all practical purposes till a successor shall be really appointed? —Quite so.

63. Then again with regard to its being imperative on the corporation to appoint a sheriff, would not a mandamus lie to the corporation to appoint a sheriff in the case of failure? —Certainly.

64. I think I can understand you. So far as you know, there are no functions which are exercised by a sheriff of a county which are not now vested in, and are exercised by, a sheriff of a county or a city? —No, not so far as I know. But the Municipal Corporations Act does not say that he shall have the office of sheriff; it says he shall have the office of the sheriff with the same powers and duties as the sheriff, or the person holding the office of sheriff, exercised in former times.

65. With regard to the commission; there are separate commissions, are there not; take York; there is a separate commission for the county of the city and for the county? —Quite so.

66. Well, the judges open these commissions at different places; one at the Castle for the county, and the other at the Guildhall of the city for the city? —I have no doubt that is so.

67. And although for convenience the commission is opened on the same day in both places, yet they sit on a subsequent day for the city and sit also at different times for the county? —Yes, with a different high sheriff; I can give a reference to the case which decided that the sheriff of Oxfordshire had not the same privilege as others; it is *Grisinger v. Taunton*, 3 Bingham, N. C., page 64.

68. Allow me; in truth the judge sitting in the county for a city can order a trial to take place if he chooses within the county; take a bill found by a grand jury of a county of a city, the judge,

Mr. Lecman—continued.

judge, for convenience, can order, if he pleases, the trial to take place in the county?—I dare say that may be so; I should like to look again at the Act for that; I should like to look at the 38 Geo. 3, c. 52.

78. In truth, the jury at York often tries cases not in the Guildhall of the city, but at the Castle; the jury of the city goes to the Castle which is in the county, and tries there if the judge so directs?—I dare say, I have no knowledge.

79. Now, as to some of those places that you have mentioned; take Hull, for instance, the county of the town of Kingston-on-Hull, no assizes are held there now?—I dare say that is so; I do not know.

80. Will you take it as a fact from me, that the cases arising in Hull are committed to the assizes for the county?—Yes; that certainly could be so under the 38 Geo. 3.

81. Well, that is the case with some of those other towns you have mentioned?—That I should not doubt; I have no doubt as to Poole, for instance; I believe judges do not go there.

Mr. D. Phaket.

82. In that case, would the trials be before the jury of the county of the town of Hull, or of the county at large?—The county at large.

Mr. Power.

83. As far as you are aware, from the records of the Home Office, are cases reported if there be any complaints of sheriffs of counties of cities who have been appointed under the Municipal Act?—No, not that I know of.

Mr. Lecman.

84. Do not you know that in truth the appointments of sheriffs in municipal towns and cities are mainly of their principal inhabitants, who afterwards become the chief magistrate?—Yes.

85. And that it is generally the prelude, in truth, to the office of mayor?—I dare say that is so.

Mr. Gregory.

86. Is there any special qualification required in any of those boroughs for a sheriff?—No, that is settled by the Municipal Corporations Act: “The council shall appoint a fit person to execute the office of sheriff.”

Chairman.

87. Now, in most of those places the gaol is common to the borough and the county, is not it?—That varies, I believe.

88. But is it so in several of them; Exeter, for instance?—Yes, certainly.

89. Who has the superintendance of the punishments carried out in the gaol?—The visiting justices and the quarter sessions.

90. But, for instance, in the case of capital punishment, is it the sheriff of the county or of the borough, in the case of a borough prisoner?—The sheriff of the borough; he used to have charge of all the prisoners, but now he has been relieved of that, except in the case of condemned prisoners.

91. Would he be considered as having the custody of the borough prisoners?—Of the debtors, but not the criminals, except the condemned criminals.

92.

Chairman—continued.

93. The condemned criminals would be in his custody?—Yes; he certainly has to see to the carrying out of the law.

Mr. Lecman.

94. So far as the sheriff has any jurisdiction over prisoners in gaol, the borough prisoners would be under the jurisdiction of the sheriff of the county of the city?—Yes.

The Marquis of Hartington.

95. Will you state to the Committee what are the chief duties of the sheriff, whether in counties at large or counties of cities?—Well, the sheriff was a greater man formerly than he is now. The sheriff means “the shire-reeve,” the chief officer of the shire; and in early times he was next to the earl; he was called *vicer regis*. Since then he has taken the place of the earl rather, and the custody of the county is nominally committed to his charge; he has to keep the peace in the county; he can raise what is called the *peas et chartas*, that is, call upon all over 15 years of age to his assistance to execute justice. Then in former times he had charge of the gaols; in former times also he had both civil and criminal jurisdiction. The criminal jurisdiction has for many centuries gone to the quarter sessions, and his civil jurisdiction has now passed to the county courts. Then he has lost control over the gaols; they are now under the prison authority, as defined by the Prison Act, 1865. So, again, as to the maintenance of the peace, it has now devolved on the police; the consequence is that the duties of sheriff are chiefly ceremonial; he has the highest rank in the county for the time; he attends the judges; he holds the court for the election of coroners; he is returning officer for the election of knights of the shire, &c., but the execution of the writs, the summoning of juries, and the rest of the ministerial work, is all done now by his subordinate, the under-sheriff.

96. He summons the grand jury, does he not?—Yes.

97. He selects the grand jury?—Well, I believe so, but I do not know as to that.

98. But as to the summoning of other juries, has he any discretion; does he frame the panel?—I am not prepared to state the law of juries; it is rather complicated, and I was not aware that I was going to be examined upon it.

Mr. Attorney General for Ireland.

99. It is nominally the high sheriff, but really the under-sheriff?—No doubt.

The Marquis of Hartington.

100. And the duties of a sheriff of the county of a city or town; are they exactly the same as those of the sheriff of a county at large?—Generally they are; there may be some local exceptions, there is in Oxford.

101. The sheriffs of the city of London are also sheriffs for the county of Middlesex?—Yes, they are; the two sheriffs of the city of London form one sheriff for the county of Middlesex.

102. That is the only case of that kind?—Yes, the only case; there is only one sheriff now for all other places; before the Municipal Corporations Act there were in many cases two sheriffs.

A 3

Mr. Bent.

Mr. G. Lumsden.
12 May
1874.

Mr. G.
Lashington,
12 May
1874-

Mr. Butt.

92. I think in all cases?—No, not in all cases.

Mr. Lashington.

94. Is it your opinion that the town council itself has the power of removal of the sheriff of the county of a city?—I think so; but it is an open question.

95. You have never known an instance?—No.

Mr. Butt.

96. This is the part about Oxford from Rawlinson's book: "Some places named in this section had no sheriffs before the passing of this Act. The sheriff of Oxfordshire had the execution of writs from the superior courts in the city of Oxford; the bailiffs of the city of Oxford (there being at that time no sheriff of the city) executing only the writs from the two city courts. It has been decided that the person appointed sheriff of the city of Oxford under this section has not the execution in Oxford of writs from the superior courts, but that he has merely the powers which the two bailiffs of the city had before. The power to execute such process still remains with the sheriff of the county upon whom the duty devolved before the passing of this Act.—*Grisinger v. Thamson.*" That is the case you referred to?—That is the case I referred to.

97. Therefore it is quite plain that the sheriff of the city of Oxford has still all the powers which the corporation officers called bailiffs possessed before the Reform Act?—Well, probably, but I could not speak to that.

98. Now you refer to the Act of 1798 (38 Geo. 3, cap. 52); that Act enables an indictment to be sent up in the adjoining county?—Yes.

99. And once it is sent up into the adjoining county the course of justice proceeds in all respects as if the offence had been committed in that county?—Yes.

100. And that can be done at the discretion of the prosecutor, as you will see from Rawlinson's book. Perhaps you will read the second section?—Yes; "That it shall and may be lawful for any prosecutor or prosecutors to prefer bills, or their bill or bills of indictment for any offence or offences committed or charged to be committed within the county of any city or town corporate, to the jury of the county next adjoining to the county of such city or town corporate, sworn and charged to inquire for the king, for the body of such adjoining county at any sessions of oyer and terminer, or general gaol delivery; and that every such bill of indictment found to be a true bill by such jury, shall be valid and effectual in law as if the same had been found to be a true bill by any jury sworn and charged to inquire for the king for the body of the county of such city or town corporate."

101. So that you see the prosecutor might in every case send up his indictment to the adjoining county?—Quite so.

102. You mentioned that there were one or two counties of cities excepted from that Act; Bristol was, and Exeter?—I dare say those are the ones excepted.

103. Are you aware that that exception originated in this, that the charters of those cities gave them a corporate court of oyer and terminer

Mr. Butt—continued.

with exclusive criminal jurisdiction?—No, I did not know the reason.

104. Take Bristol as one of the cities which you will find in the corporation report; there was a supposed grant of exclusive criminal jurisdiction; but are you aware that exclusive criminal jurisdiction is expressly abolished by the Municipal Reform Act in all corporate towns?—Well, I dare say it is so.

105. And in consequence of that these towns were then brought within the operation of the 38 Geo. 3 by the Municipal Corporation Act expressly?—I do not think all of them are; if you look at the 109th section of the Municipal Corporations Act that only abolishes some exceptions which existed to the Act of 38 Geo. 3.

106. We must have this point clear; I will refer you to Rawlinson's book, which recites the Act of Geo. 4, and the reason for that is because criminal jurisdiction had been previously abolished. If you look at section 107 of the Municipal Corporations Act you will find that all these exclusive criminal jurisdictions were abolished (*Annulling the took to the Witness?*)?—Yes.

107. Then there was no reason for exempting Bristol, Exeter, or the other counties of cities mentioned there from the general provisions of the Act of 1798?—Yes.

108. How many boroughs are mentioned as excepted in the 38 Geo. 3; I think there were none but those, were there?—None, except the cities of London and Westminster and borough of Southwark.

109. All the boroughs that were exempted are brought within it?—All the boroughs subject to the Municipal Corporations Act.

110. Now will you be good enough to look at that statute relating to Ireland, the 6 of Geo. 4, sect. 3, and see if it is not exactly the same as the Act of 1798 (*Annulling a statute to the Witness?*)?—Yes, without any exceptions.

111. That is identical with the words of that Act?—Yes, with the combined effect of 38 Geo. 3, cap. 52, and the 109th section of 5 & 6 Will. 4, c. 76.

112. Therefore in Ireland exactly the same power exists of sending all indictments to the adjoining county that exists in England?—Yes.

113. Are you aware that the power of the Crown to remove a sheriff depends entirely on the appointment being made "during pleasure"?—Do you mean of the sheriff of a county at large?

114. Yes?—Well, I have not found any instance of the Crown removing a sheriff, but it is clear that the Crown has that right.

115. Is that good law, as laid down in Blackstone: "The sheriff, by virtue of several old statutes, is to continue in office no longer than one year, and yet it has been said that a sheriff may be appointed *durant dies placito*, or during the King's pleasure, and so is the form of the Royal writ, and of the present warrant of appointment; therefore, till the new sheriff is named, his office cannot be determined unless by his own death, or the demise of the Crown"?—There is no doubt the Crown has the power, because the sheriff is appointed during pleasure.

116. Are not you aware, that in England the shrievalty in some counties was held as an hereditary thing?—Yes; I believe Lord Salisbury is now hereditary sheriff of St. Albans.

117. And

Mr. Butt—continued.

117. And in ancient times sheriffs of counties were also elected by the people?—Certainly.

118. And it was a statute that vested the appointment of sheriffs in the Crown?—I should like to make clear a former answer that I made, as to the Crown having the right to remove the sheriff. What I meant to say was, although the Crown has the undoubted right of removing a sheriff of a county at large, I have no evidence of the Crown having exercised it, or of having appointed a new sheriff on the removal of the old sheriff, but it is said in *Atkine*, which is a very good book, that in such a case the Crown has, by virtue of its prerogative, the power of nominating another sheriff for the county, without summoning the officers of State.

119. That is without taking the appointment from the Treasury and judges?—Quite so.

120. The law upon that is stated by Blackstone in this way: "Sheriffs were formerly chosen by the inhabitants of the several counties, in confirmation of which it was ordained by statute, 28 Edw. I, c. 8, that the people should have election of sheriffs in every shire where the shrievalty is not of inheritance"; that is correct, is not it?—Yes.

121. The reason of this popular election is assigned in 28 Edw. I, c. 18, "that the common might choose such as might not be a burthen to them; and herein appears plainly a strong trace of the democratical part of our constitution, in which form of Government it is an indispensable requisite that the people should choose their own magistrates; this election was, in all probability, not absolutely vested in the Commons, but required the Royal approbation; however, these popular elections growing tumultuous were put an end to by the statute 9 Edw. 2, c. 12, which enacted "that the sheriff should thenceforth be assigned by the chancellor, treasurer, and the judges, as being persons in whom the same trust might, with confidence be reposed"; that is correct?—Yes.

122. And then the Queen selects, or "pricks" with a pin, I believe, from those so nominated?—Yes.

123. I will now read you another passage from Blackstone, "And this usage of ours at the first introduction was founded upon some statute not now to be found among our printed laws; first, because it is materially different from the direction of all the statutes before mentioned, which it is hard to conceive the judges would have countenanced by their concurrence, or that *Foetesius* would have inserted in his book, unless by the authority of some statute; and also because a statute is expressly referred to in the record which Sir Edward Coke tells us he transcribed from the Council book of the 3rd March, 34 Hen. 8, and which is in substance as follows: 'The king had of his own authority appointed a man sheriff of Lincolnshire, which office he refused to take upon him, whereupon the opinion of the judges were taken as to what should be done in this behalf; and the two Chief Justices, Sir John *Foetesius* and Sir John *Pricote*, delivered the unanimous opinion of them all that the king did err when he made a person sheriff that was not chosen and presented to him according to the statute; that the person refusing was liable to no fine for disobedience as if he had been one of the three persons chosen according to the tenor of the statute; that they would advise the king to have

Mr. Butt—continued.

recourse to the three persons that were chosen according to the statute, or that some other sheriff may be entrusted to occupy the office for this year, and that the next year to eschew such inconvenience, to order that the statute in this behalf may be observed. But notwithstanding this unanimous resolution of the judges of England then entered in the Council book and the statute of the 34 & 35 Hen. 8, c. 26, s. 61, which expressly recognises this to be the law of the land, some of our writers have affirmed that the Crown by its prerogative may name whom it pleases to be sheriff, whether chosen by the judges or not." Are you aware of that passage in Blackstone?—Yes.

Mr. G.
Lansdowne.

12 May
1874.

Chairman.

124. Have any complaints come under your notice from jurors summoned to attend in these counties of cities?—No, none have come under my notice, but I have no doubt the origin of that Act of the 38 Geo. 3, c. 62, enabling these cases to be tried in the adjoining counties, was in order that you might get a better panel of jurors.

125. Possibly, in order that a sufficient number of jurors might be secured?—Quite so, and that they might have a larger choice.

126. At present is it not the fact that two grand juries have to be summoned, one for the city of the county, and another for the county, and that the judge has to deliver two charges?—Yes.

127. And that two sets of other jurors have to be summoned also?—Quite so.

128. Whereas one would suffice in each case?—Quite so; they are in all respects, two counties.

129. Are you aware whether in any of those jurisdictions there is much business at the city assizes?—Well, I think that must entirely depend upon the size of the place; probably, at those small places assizes are not held; at Poole certainly they are not held; I do not know as to the other places; but at Bristol and Gloucester and Newcastle-on-Tyne I should think there must be plenty of business.

130. There is very little at the Gloucester City assizes?—Well, that is a city of only 18,000 inhabitants.

Mr. Attorney General for Ireland.

131. Is there any leaving off of expenses for the building of court-houses, or gaols, or keeping them up in one of these counties of towns; or does the expense all fall on the little area of the county of the town; do you know of any Act applying to that?—It is settled by statute.

Mr. Lewin.

132. In practice is there any doubt about it that the county of the city maintains its own gaol, and pays for it out of the rates, altogether independent of the other county expenses?—Certainly not.

133. You say you have not heard any cases in which complaints have been made on the part of the jurors of being summoned to these smaller jurisdictions?—I have not heard any; but I do not know whether they would necessarily have come under my knowledge.

134. Well, but have you any knowledge at all of any complaints being made by the jurors of a county of a city?—I have not.

135. Do not you think the complaints would just be the other way; do not you think a juror,

Mr. G.
Luptington,
19 May
1874.

Mr. Luptington—continued.

for instance, in the city of York, would rather complain if he had to be called as a juror for the county, seeing that he would have to remain a much longer time in attendance for the county than he would have in his own smaller jurisdiction?—Yes; I dare say it would not be so pleasant for him if he were summoned for the county.

136. But have you any knowledge at all of any complaints in those jurisdictions on the part of the jurors living in the county of a city?—No, I have not; and I have not made inquiry at the Home Office whether they have had complaints; the Home Office does not administer these matters, and even if it did, it would not necessarily come under my notice.

137. Why should a juror living at Bristol complain that he is summoned to do justice in the county of the city of Bristol, rather than being summoned to do justice in the county of Somerset?—I do not see why he should complain of it.

138. Or take the same question with reference to Newcastle-on-Tyne?—No, certainly not.

Chairman.

139. The complaints would not arise in the large places, they would arise in the small ones if there were any?—Quite so.

Mr. Luptington.

140. But in the small ones they would not arise for the reasons I have given you, namely, that the jurors would be compelled to attend three times as long if summoned for the county, as if they were summoned for the town.

Mr. Gregory.

141. Has not the sheriff the power of calling out the *sesse comitatus*?—He has.

142. That is for the preservation of the peace?—Yes.

143. That is in his discretion?—Yes.

144. Therefore, in a borough, that would be done by the sheriff of the town?—Yes, the Marquis of Hartington.

144*. I think I understood you to say that the sheriff of a city might be removed by the council?—That is only my impression, there is no law upon the subject.

145. Could he be removed by the Crown?—No, the Crown has no power.

146. Can the sheriff of a county at large be removed by the Crown?—Yes, certainly, he is appointed by the Crown during the pleasure of the Crown.

147. Then what would happen if a sheriff of a city misconducted himself in any way?—Well, I cannot say; they have been well behaved in this country.

Sir Cuthbert O'Leghern.

148. I am afraid you would have to bring in a special Act of Parliament as was threatened in the case of the Mayor of Cork?—In the case of Haverfordwest, I have no doubt the sheriff would be removable, as he was removable before the Municipal Corporations Act, under a special provision in the charter. The Municipal Corporations Act said he should be appointed with the same powers and duties as he had before.

Mr. Gregory.

149. Would not that over-side the charter?—

Mr. Gregory—continued.

Yes, so far as it was contrary to it. For instance, it gives the appointment exclusively to the council, and then it incorporates the charter by declaring the sheriff shall have the same powers and duties as former sheriffs used to have.

Marquis of Hartington.

150. Do you know of any case in which the sheriff of the county at large has been removed?—No, and they do not know of any such case at the Privy Council Office, for I asked there.

Mr. Butt.

151. Do not you know that there have been instances in England in which sheriffs have been relieved from being sheriffs, in order that they might contest a borough in a county?—Not within my knowledge, but I dare say there have been cases.

Chairman.

152. Now with regard to the appointment to clerks of the peace, you are aware of the proposals of this Bill upon that subject?—It is to give the appointment to the council of the borough.

153. What is the law upon that matter in England?—Shall I give you the law as to the clerks of the peace and boroughs exclusively, or shall I begin with the clerks of the peace of counties?

154. Perhaps you had better begin with clerks of the peace generally, and tell us of any difference?—In counties the clerk of the peace is appointed by the *curator rotulorum*, and he is appointed during good behaviour. In case of misbehaviour he is removable not by the *curator* but by the court of quarter sessions, and if his misconduct has not been in the discharge of his office, but outside his office, then he has an appeal to the Lord Chancellor. In boroughs under the Municipal Corporations Act with quarter sessions, the council appoint the clerk of the peace also during good behaviour, and he is removable by the Recorder. In like manner there is an appeal to the Lord Chancellor if the ground of his removal is misconduct out of office.

155. Is there any difference between the present time and that before the passing of the Municipal Corporations Act in respect to boroughs having courts of quarter sessions?—Whether a borough before the Municipal Corporations Act had or had not a court of quarter sessions depended upon its charter; generally I believe the boroughs had. It is so stated in the Report on Municipal Corporations that most corporation boroughs had quarter sessions where the mayor presided with a barrister for an assessor. Now that is altered by the Municipal Corporations Act, which declared that certain boroughs should have a court of quarter sessions, and empowered the Queen to make a special grant of quarter sessions to any borough she might think fit.

156. How many boroughs exist now with separate courts of quarter session in England?—I have got a list of them here, but I do not think I have counted them; this is a list of all the municipal boroughs, and you will see those that have got quarter sessions marked and their populations too.

157. I notice that some of those are very small boroughs?—Oh, very small indeed.

158. Abingdon 5,000, Andover 5,500, and so on?

Chairman—continued.

en?—Yes; I have got here some statistics showing which are the five smallest municipal boroughs holding quarter sessions, and which are the five largest boroughs which do not hold quarter sessions. The five smallest are, Sandwich, Hythe, Tenterden, Helestone, and Rye, all of them under 4,000 inhabitants; they all have quarter sessions. Then the five largest which have not quarter sessions are Sheffield 239,000, Sunderland 88,000, Salford 124,000, Bradford 143,000, Preston 85,000; so that it is an extremely capricious and arbitrary arrangement now whether a borough has or has not quarter sessions.

159. Since the Municipal Corporations Act have any boroughs been constituted with separate quarter sessions?—Yes.

160. Have any small ones?—Yes, some of them; Margate, for instance, got a court of quarter sessions a short time ago.

161. What is the population of Margate?—Rather over 12,000.

162. Have any difficulties come under your notice arising from those small jurisdictions?—Unquestionably; there could not be a greater improvement than if all small boroughs, whether with or without quarter sessions were amalgamated in the counties.

163. Has any proposal ever been made for that purpose?—Well, I think not; it is rather a difficult enterprise for anybody to undertake.

164. What are the duties of the clerk of the peace?—He is the officer of the justices, especially; he is the officer of the quarter sessions, and in counties, of course, he manages all the county business.

165. What are his duties in these boroughs?—He is the clerk of the court, because the functions which are exercised by quarter sessions, the ministerial functions, are in boroughs discharged by the town councils.

166. The town clerk in a borough would discharge a great many duties which a clerk of the peace in the county would discharge?—Quite so; a town clerk and a clerk of the peace, we may say, together discharge the duties of the clerk of the peace in counties.

167. Would not that leave very little to do for the clerk of the peace in a small borough?—Well, certainly he has very little to do.

168. Is he the clerk of the borough magistrates?—No, that is a different office.

169. He is simply clerk at the quarter sessions held by the recorder?—Quite so.

170. Has he anything to do with the juries?—Yes, he has to swear them.

Mr. Leman.

171. He does not summon them?—No, the sheriff summons them.

Chairman.

172. Has he anything to do with the formation of the panel?—I think not; I think that is the sheriff's duty.

173. Has he anything to do with the formation of the jury list?—No, I think not; I think that is the sheriff's duty.

Mr. Butt.

174. Does not he summon, in England, the juries to some of the borough courts?—I can read to you exactly the duties of a clerk of the o.s.s.

Mr. Butt—continued.

peace. The duties of a clerk of the peace, independently of special duties imposed on him by statute, are to attend the quarter sessions, and there to read the indictments and documents required to be read, to serve the court, to enrol Acts in Session, to draw the process and orders of the court, and, in fact, to act as clerk of the court. As such clerk, he takes oaths ordered to be paid by the court. He may also be called upon by a prisoner to make up a record of the conviction; he also keeps the records as deputy constable, and by his attending at the sessions, discharges the constable from the necessity of attending in person; he calls over and swears the juries, arraigns prisoners, and receives and takes the verdicts; he calls persons under recognisance, whether to prosecute, give evidence, or to appear for trial; he presents bills to and receives them from the grand jury, and administers oaths on behalf of the justices. He has also many other duties.

Chairman.

175. I suppose the work of the court of quarter sessions in many of these small boroughs is very little indeed, is it not?—I believe so.

176. Next to nothing?—Yes.

177. And do not nearly all the duties of the clerk of the peace, which you have read, depend upon that work at quarter sessions?—Yes; if you will allow me I will give some statistics with respect to five of the smallest municipal boroughs holding quarter sessions; the number of indictments and offences reported by the police for the year 1873, was in Sandwich, 10; Hythe and Tenterden, none; Helestone, two; and Rye, six.

178. So that in a small place of that kind his functions are all almost, are they not?—Well, they are not very severe; I do not think they can be much.

179. You see no objection in keeping up a separate jurisdiction?—Certainly not.

Sir Colman O'Loghlen,

180. As far as you are aware have any complaints been made of clerks of the peace appointed by corporations in England?—No.

Mr. Gregory.

181. I understand the clerk of the peace for the borough does not make up the jury panel?—No.

182. The jury panel is made up for the county and the jurors for the borough are summoned upon that?—No; if the cases are to be tried in the county of a borough, then a borough jury would be empanelled; but there is power under the Act which I have mentioned, 38 Geo. 3, to try the prisoners of the county of the city in the adjoining county; and in that case they would be tried before a jury empanelled from the county at large.

183. Who would empanel the jury for the county of the city?—The sheriff.

184. The sheriff of the county of the city?—Yes.

185. He would have a separate panel from the county panel?—Yes; they are two distinct counties.

Mr. Leman.

186. The clerk of the peace of the county of the city has nothing at all to do with the empanelling of the jury?—No.

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187. And

Mr. G.
Washington.

12 May
1874.

Mr. G.
Lushington.
12 May
1874.

Mr. Lushington—continued.

187. And all he has to do is the same as the clerk of the peace has to do in a county?—Precisely.

188. The sheriff hands to him at the commencement of the court the jury panel, summoned by the sheriff, from which the clerk of the peace takes the juries who are to try a particular case?—Quite so.

189. It is just the same in cities as in counties?—Quite so.

Marquis of Hartington.

190. I understand your evidence to be this, that as to the clerk of the peace, there is no distinction between the county of a city and the county of a town, and any other borough having separate quarter sessions?—None at all.

191. But have all counties of cities or counties of towns separate quarter sessions?—Yes, they have.

192. And no boroughs which have not separate quarter sessions have clerks of the peace?—No, they have not.

Mr. Power.

193. Have corporations any power over the clerk of the peace?—No, not corporations.

194. They do not pay him; he receives no salary from them?—That depends upon the particular case; in some cases he is paid by fees, and in some cases by salary; or he may be paid partly by fees and partly by salary.

195. But there are cases where the corporation does not give him anything?—No; where he is entitled only to his fees.

Mr. Butt.

196. Must not every county of a city or county of a town, being a separate county in itself, have a separate court of quarter sessions?—Well, they have, as a matter of fact.

197. They must have it by law; is not that so; they could not have a court of quarter sessions except by their own magistrates; the magistrates of the adjoining county have no jurisdiction?—No, certainly not.

198. Then, if that is so, they all have quarter sessions?—Yes; but they are all under the Municipal Corporation Act.

Mr. Attorney General for Ireland.

199. Are the clerks of the peace paid by salary or fees?—That varies. The old law was that they were paid by fees. Now there is a power to pay them either by fees or by salary, or partly in one way and partly in the other.

200. But the Crown does not find the money; it is levied on the rates?—Certainly.

Mr. Lushington.

201. In cases where they are paid by fees, the Crown does, under a recent Act of Parliament, return those fees, under the Criminal Law Amendment Act?—I do not know what you mean. The fees then would go to the county

Mr. Lushington—continued.

or borough rate, and the county or borough rate would have to pay the salaries.

202. Yes; the Crown does return a portion of those fees, under the Criminal Law Amendment Act, to the particular county or town?—The fees are paid not to the Crown, but to the clerk of the peace, and he accounts for them to the borough or county rate.

Marquis of Hartington.

203. I am not quite sure whether I understood you correctly; are the clerks of the peace of boroughs in all cases appointed by the town council?—Yes; under the Municipal Corporations Act.

204. And is there always a town council?—Always.

205. In all counties of cities?—Yes; always.

206. And I think you said they were removable by the justices?—They are removable by the recorder.

Mr. Attorney General for Ireland.

207. Is that by Act of Parliament?—Yes, it is the effect of an Act; it is the effect of the Municipal Corporations Act, which transfers certain powers at quarter sessions to the recorder.

Mr. Gregory.

208. Has there been any case of the removal of the clerk of the peace by a recorder?—I can give you the name of a case, *Regina v. Hayward*, 31 Law Journal, Magistrates Cases, page 177.

209. That was by the recorder alone, and not by the consent of the bench?—I have not referred to that case lately, and forget how it arose, but the decision was to the effect that the power of removal lay in the recorder, not in the magistrate.

Mr. Lushington.

210. There is no bench in the court of quarter sessions in boroughs?—No.

211. Except the recorder?—Yes.

212. Formerly the whole of the magistrates used to sit?—Quite so.

213. Then the jurisdiction was transferred to the recorder exclusively?—Yes.

214. And the power passed to the recorder?—Yes; and it was decided in that case that it did so pass.

Marquis of Hartington.

215. Is there an officer called the clerk of the Crown in those boroughs?—No, the clerk of the Crown is appointed for the districts.

216. For each assize?—No; he is appointed for the circuit. Each circuit has an officer attached to it called the clerk of assize. His duty is to preside over the whole of the administrative business, both of the civil and criminal courts; he acts as associate in the Trial Privy Court, and in the criminal court discharges the functions of clerk of the Crown.

Friday, 15th May 1874.

MEMBERS PRESENT:

Mr. Attorney General for Ireland.
Sir Michael Hicks Beach.
Mr. Butt.
Mr. Goldiacy.
Mr. Gregory.

Marquis of Hartington.
Mr. Leemaa.
Sir Colman O'Leghlen.
Mr. Plunkett.
Mr. Power.

Sir MICHAEL HICKS BEACH, IN THE CHAIR.

Dr. W. NEILSON HANCOCK, called in; and Examined.

Chairman.

217. What position do you hold?—Barrister-at-law. I had charge of the statistics of local taxation in Ireland from 1866 until November last, and then I have had charge of reporting on the judicial and criminal statistics in Ireland ever since 1865.

218. Have you had any occasion for considering the administrative arrangements of counties, of cities, and towns and of boroughs in Ireland?—Yes; in connection with the returns of local taxation I had occasion to consider the arrangements with regard to the towns in Ireland, and in connection with that I made a special reference in my introductory report on the returns of local taxation for 1870; amongst other questions, to the question of the jurisdiction of counties of cities and towns.

219. I think this is your report. Will you just read what you there said?—"The towns which present the most unnecessary complication in the machinery of local government are the smaller counties of cities and of towns: Drogheda, Kilkenny, Waterford, Carrickfergus, and Galway. The rural portions of Drogheda, Kilkenny, and Waterford were separated from those towns so far back as 1840, and the boundary of each for fiscal and criminal purposes coincides with the municipal boundary; yet in Drogheda there is a grand jury to manage 2,618/- a year, and a town council in the same boundary to manage 3,213/- The grand jury is no longer necessary for criminal purposes; at the two assizes and four quarter sessions in the year there were, on an average of the past five years, only nine persons for trial, or about one and a half for each assize, and one and a half for each quarter session. The maintenance of the separate criminal jurisdiction of the county of the town of Drogheda involved the summoning for the trial of nine persons, and a correspondingly small amount of civil business, of 413 jurors at the two assizes, and 560 jurors at the four quarter sessions, or 972 jurors in all; it involved a separate staff of officers, high sheriff, sub-sheriff, clerk of the Crown, clerk of the peace, and secretary of the grand jury, with separate gaol, with local inspector, governor, and two chaplains. In Carrickfergus the gaol has been amalgamated with that for the county of Antrim; but whilst the police

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report one prisoner committed for trial, the sheriff returns 160 jurors summoned to the assizes at Belfast for grand and petit juries, and 180 to quarter sessions. The clerk of the Crown and deputy clerk of the Crown are the same as for the county of Antrim, but there is a separate clerk of the peace and secretary of the grand jury. In Kilkenny the county of the city has been amalgamated with the county at large for police purposes, and for gaol purposes, but remains separate for the purposes of assizes and quarter sessions, with a separate commission of the peace. The persons for trial, on an average of the last five years, were 14 in the year, whilst 204 jurors were summoned. In Galway and Waterford there has been an amalgamation for gaol purposes, but the other arrangements are distinct. The maintenance of a separate county of the city in Dublin for criminal purposes is inconsistent with the principle on which the Central Criminal Court has been constituted in London."

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Mr. Attorney General for Ireland.

220. Where is that Report to be had?—It was presented to Parliament in 1872 (Parliamentary Paper 1872, c. 478, p. 10). Then besides going into the question in that point of view, I had to consider it in connection with the judicial and criminal statistics of those counties of cities and towns upon which I have reported for the last 10 years. Again, in preparing the Jury Act of 1871, the question of distinct qualification for juries of counties of cities and towns from that of juries for counties at large which existed under the old law, and the necessity of making provision under the new law for a distinct qualification, brought the whole subject up again before me.

Chairman.

221. Are you acquainted with the number of towns which will be immediately affected by the Bill now before the Committee?—There are exactly 10 towns. The counties of cities and towns are eight in number; Londonderry is mistakenly treated as a county of a city and town in the Bill; it is really a borough with a separate court of sessions of the peace, and Belfast is the only other borough which has by charter a separate court of sessions of the peace.

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222. Excepting

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222. Excepting those two, are the towns affected all similarly circumstanced?—No; Belfast and Londonderry are very similar, but there are some minute differences in the Belfast charter. It did not get the full grant of a separate jurisdiction for the court of sessions of the peace through the want of the "non-intromittant" clause in the charter. That, I believe, arose from a mistake in the Irish Petty Sessions Act (14 & 15 Vic. c. 93, s. 7). The Irish Petty Sessions Act did not keep to the words in the English Act (11 & 12 Vic. c. 43, s. 6), in which there is a clause enabling magistrates of an adjoining county to act for that county, although at the time they may be within the borough. That is in the English Act. In the Irish Act, when they came to provide for that, they thought that the only exclusive jurisdictions were counties of cities, and towns; and they made no provision for magistrates acting in a borough with a separate sessions of the peace (14 & 15 Vic. c. 93, s. 7). Carrickfergus is different from the other towns in having no municipal corporation, and it is still under the old municipal commissioners who were intended to be a temporary arrangement until a corporation was created, or town commissioners were elected. They never obtained either one or the other, and they remain in the temporary position still.

223. Galway is in the same position as Carrickfergus!—Galway is in the same position as Carrickfergus, except that Galway has a recorder and the assizes are held in the town, and they have only improvement commissioners, and no municipal corporation. There is another peculiarity; there are two sets of magistrates. There are some for the county of the town; and the borough boundary is not the same as the county of the town; and there are other magistrates for the borough. Three towns, Drogheda, Kilkenny, and Waterford, are all in a similar position to one another. They have municipal corporations, but the fiscal powers of the grand jury have not been transferred. In Dublin, Cork, and Limerick the grand juries have no fiscal duties to discharge. The fiscal powers have been transferred to the municipal council.

224. Did you state the position of Londonderry?—Londonderry has a separate sessions of the peace. It has a separate borough magistracy, but it has no separate sheriff nor separate clerk of the Crown, and there is only one venue, that is the venue of the city, and county of Londonderry, and for assize purposes and for records, and all business of the superior courts, there is only one venue.

225. Has the chairman of the county any jurisdiction there?—Yes; in Londonderry there is a recorder, but the chairman of the county has concurrent civil bill jurisdiction along with the recorder. In Belfast there is a recorder, but the chairman of both Antrim and Down have concurrent jurisdiction, the chairman of Antrim in the Antrim part and the chairman of Down in the Down part of the borough; and there, for want of the "non-intromittant" clause, they both have concurrent quarter sessions jurisdiction. In Cork there is a recorder, and in the case of the recorder of Cork, the chairman of the East Riding of Cork has concurrent jurisdiction in civil bill business, and has no concurrent jurisdiction in criminal business. In the other towns that have no recorder, that is Limerick, Waterford, Kilkenny, Drogheda, and Carrickfergus, the chairman of the

Chairman—continued.

adjoining county has the whole of the civil bill and quarter sessions jurisdiction.

226. Where are the assizes held for Carrickfergus?—The assizes are held for Carrickfergus at Belfast, that is eight miles from the boundary. The quarter sessions, however, are held twice a year in Carrickfergus itself, but the court of the chairman for the civil business is held, not at Carrickfergus, but at Belfast.

227. You said that the grand juries still retain their taxing powers at Galway and Carrickfergus; can you tell us to what extent?—Yes; in Carrickfergus the grand jury spend 2,598*l.* a year, and the municipal authority 1,123*l.*; in Galway the grand jury administer 5,378*l.*, and the municipal 1,622*l.*; then in Kilkenny the grand jury administer 1,953*l.*, and the town council 3,894*l.*; in Drogheda the grand jury administer 2,464*l.*, and the town council 3,795*l.*; in Waterford the grand jury administer 3,397*l.*, and the town council 15,037*l.*

Sir Colman O'Leary.

228. In Limerick, I believe, they are amalgamated!—Yes.

Chairman.

229. I believe that at Galway the offices of clerk of the peace and clerk of the Crown are held by the same person, are they not?—Yes, they are; they happen to be so held.

Mr. Baft.

230. That is accidental?—That is accidental, but they are held by the same person.

Chairman.

231. What is the case with regard to those offices at Waterford?—In Waterford there is not only a clerk of the peace and a clerk of the Crown, but a deputy clerk of the peace and a deputy clerk of the Crown.

232. Did you state what the arrangements were in Kilkenny and Waterford for the gaols?—In Kilkenny and Waterford the city gaol and the county gaol have been amalgamated. They have only one gaol; but in Drogheda there is a distinct gaol maintained. In Carrickfergus the gaol has been amalgamated with the county, and I think in Galway, too, the gaols are amalgamated.

233. What is the position of Limerick, Cork, and Dublin in fiscal matters?—In fiscal matters the whole power of the grand jury has been transferred from the grand jury to the town council, and the grand juries now make no presentment. In the city of Dublin there was a slight reservation, and that is, the appointment of prison officers has been reserved to the grand jury of the city by an accidental omission in the Improvement Act of 1850.

234. Is there any difference between Cork and Limerick?—No, not in the grand jury. The only difference between Cork and Limerick is as to the recorder in Cork.

235. In what way?—Limerick has no recorder, Cork has.

236. Is there anything special in the position of clerk of the peace for the city of Dublin?—Yes, the clerk of the peace for the city of Dublin is the only clerk of the peace whose office has been regulated, and he is paid a fixed salary, and all the fees are accounted for to the borough fund. Then, curiously enough, the clerk of the Crown is left under a most antiquated arrangement.

Chairman—continued.

ment. He is not paid any fixed salary, but gets compensation by presentment under the old Act of George IV, (49 Geo. III, c. 101, and 1 & 2 Geo. IV, c. 77), in lieu of the fees the prisoners used previously to be liable to pay him.

237. You read us, from your Report of 1870, facts showing the contrast between the small number of criminal cases and the number of jurors summoned; can you give us any more recent statistics showing the number for trial and the number of jurors summoned?—Yes; in the way the returns are made up the number of persons for trial to quarter sessions and the assizes are not distinguished, and therefore they are grouped together in this. In arriving at the average number for trial at each assizes and quarter sessions, I have taken the last five years in order to get the exact average, and not to have any exceptional year in it, and I have divided the total number for the county by the two assizes and four quarter sessions. In Carrickfergus the numbers are not returned distinct, they are returned for Antrim; but taking the police returns at Carrickfergus for 1873, there were no persons tried in that year at all. Then, in Kilkenny, for the last five years, the average number of persons tried in each court is 8; in Drogheda the average is 15; in Galway, 47; in Waterford it is 32; then, at Limerick, there are 16, and at Cork 25. The number of jurors summoned in Carrickfergus, although there were no persons on trial during the whole year, was, nevertheless, 426.

Mr. Butt.

238. To how many courts?—Six courts. About 45 of these were necessary as grand juries for the fiscal business, but if you subtract those 46 the rest, 350, were wholly unnecessary. In Kilkenny there were 620 summoned in the year, while there were only two prisoners in each court. Then, in Drogheda, there were 632 summoned.

Chairman.

239. To try one prisoner and two thirds?—I have spread the average over each of the six courts; 10 persons for trial in the year gives 15 for each court.

Mr. Gregory.

240. Were these jurors actually summoned, or were they put on the panel?—Oh, yes, summoned. The sheriffs make a return to the judicial statistics of the juries they summon.

Sir Charles O'Leary.

241. The jurors live in the town itself?—Yes, except merchants having places of business in the town, though residing within 12 miles. In Galway there were 843 jurors summoned; in Waterford, 730; in Limerick, 498; and in Cork, 1,277.

Chairman.

242. Can you give us the number of records entered, and the number of special jurors summoned in addition to the common jury panel?—Yes; this is the return for 1872. The average number of records entered at each assizes for 1872; in Carrickfergus, none; Kilkenny, 1; Drogheda, 1.

243. That is half at each assizes?—In Galway, 1; Waterford, 1; Limerick, 2½; and Cork, 8.

244. Eight at each assizes?—Yes, the average is 8. I have divided the number in the whole year by the two courts.

—58.

Chairman—continued.

245. How many special juries were summoned in 1872?—In Carrickfergus there were none, in Kilkenny 48, in Drogheda 96, in Galway 96, in Waterford 96, in Limerick 96, and in Cork 96.

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Mr. Gregory.

246. Are those included in the figures you have already given us?—No, they are not; those are in addition; because if it were a common jury case it would be tried by a common panel. In Ireland we have only one panel for criminal and common civil cases in Ireland, therefore the numbers I have given you for the same panel tries criminal cases and "common jury" civil cases, and I have only given you, distinct from that, the special juries.

Chairman.

247. Can you tell us anything that would illustrate the amount of duty devolving on the sheriff in these counties of cities and towns?—Yes. There is a return of writs in ejectment from the superior courts executed by the sheriff. In Carrickfergus, none; in Kilkenny, none; in Drogheda, none; in Galway, 10; in Waterford, 1; in Limerick, none; and Cork, 1.

248. What year does that relate to?—1872.

249. Then take the writs of execution from the superior courts?—Carrickfergus, 8; Kilkenny, 9; Drogheda, 7; Galway, 21; Waterford, 37; Limerick, 60; and, in Cork, 100.

250. Can you give us any statistics of the business of the sheriff in connection with the civil bill courts?—The civil bill ejectments executed by the sheriff: Carrickfergus, none; Kilkenny, 1; Drogheda, none; Galway, 6; Waterford, 3; Limerick, 8; and Cork, 38. Then civil bill decrees executed: Carrickfergus, 9; in Kilkenny they are not returned; in Drogheda there appears to be none; in Galway, 56; in Waterford, 17; in Limerick, 579; and in Cork, 756.

Mr. Gregory.

251. What are those?—Civil bill decrees, similar to English county court decrees.

252. Are they executed by the sheriff or by the bailiffs of the county?—By the sheriff or his bailiffs.

Chairman.

253. What do you think is the reason for those ancient jurisdictions having such small business?—My attention was first called to the reason by a very experienced clerk of the peace, and on looking at the statistics I find the reason is easily explained, and that is, that owing to the vigilance of the police, and the great extension of the summary jurisdiction of magistrates, a great deal of crime in Ireland is stopped in the bud, and dealt with at petty sessions, and does not come forward to the superior courts at all. We find quite a substantial business at petty sessions. The persons proceeded against for offences determined summarily, were in Carrickfergus, 171; Kilkenny, 774; Drogheda, 617; Galway, 1,170; Waterford, 1,816; Limerick, 1,579; Cork, 4,383. Then the magistrates have got jurisdiction for the recovery of the possession of tenements in towns, and there are very substantial proceedings in that: Carrickfergus, 13; Kilkenny, 37; Drogheda, 76; Galway, 64; Waterford, 211; Limerick, 336; and Cork, 1,125. Then, in civil cases other than against tenants, the magistrates have civil jurisdiction. There were 18 in Carrickfergus, 84 in Kilkenny, 84 in Drogheda,

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84 in Galway, 51 in Waterford, 2,600 in Limerick, and 1,615 in Cork.

Mr. Gregory.

264. Civil cases, those are?—Yes; civil cases at petty sessions.

Chairman.

265. Are the duties of clerk of the peace of counties of cities and towns the same as those of the counties?—No; they are not in all cases. Where there is a recorder, the clerk of the peace is not the registrar to the recorder, but there is a distinct officer who acts as registrar to the recorder. That applies to those counties of cities and towns which have recorders. Then, when the chairman has either exclusive or concurrent jurisdiction in the county of a city or a town, it is the clerk of the peace of the county that is his registrar, and not the clerk of the peace of the town; so that the clerk of the peace of the town has not the large civil hill jurisdiction that the clerk of the peace of the county has.

Mr. Gregory.

266. Do you say it is concurrent with the clerk of the peace of the town?—No; I say the chairman of the county, similar to the English county court judge, has concurrent jurisdiction with all recorders except the Recorder of Dublin, and then his officer, the clerk of the peace of the county of which he is chairman acts as registrar when he is deciding city cases.

267. And carries out the execution of his orders?—No; he has not to carry out the execution; the sheriff does that.

268. The sheriff of the county or of the county of the town?—I have already explained, the sheriff of the county of the town; but we are now on the clerk of the peace. The clerk of the peace in a county is the registrar of the county court, of the chairman of the county. Then, when the chairman comes to exercise the jurisdiction in the city, it is the same registrar attends him, and not a clerk of the peace of the city; and then, again, if a recorder is acting in the city, it is not the clerk of the peace that acts as registrar of the recorder, but there is a separate officer as registrar of the recorder; so that the clerk of the peace of the city has, so far, less duties than the clerk of the peace of the county.

Chairman.

269. What opinion have you formed on the subject of the statistics you have given us?—Well, the opinion I have formed is, that for all assize business and all business of the superior courts, the venue of counties of cities ought to be merged into that of the county at large.

270. Has any objection been made to the separate venue for criminal purposes between the city and county of Dublin?—Yes; that subject was brought before our statistical society (*"Journal of the Statistical and Social Inquiry Society of Ireland,"* January 1868, vol. iv., part xxiv., p. 445) some years ago, in 1867, by Mr. Constance Molloy, when he called attention to the Central Criminal Court in London, and suggested that the proper analogy to the Central Criminal Court in London would be having one venue for the county and city of Dublin in criminal cases.

271. If the venues were merged; but the separate magistracy, and separate sessions of the

Chairman—continued.

peace continued, would it necessarily follow that a separate clerkship of the peace should be maintained in the borough?—No; in Belfast, where a separate clerk of the peace was created, it was the duty of the clerk of the peace of the county of Antrim that was appointed clerk of the peace, so that really the same officer discharges the duties both of the borough and county.

Mr. Butt.

262. But that is a matter of accident?—Quite an accident.

Chairman.

263. Has any attempt been made to reform the local courts and consolidate the local offices, or are they to be maintained separately?—That was a subject on which a report (*Report of Mr. Constance Molloy, in "Journal of Statistical and Social Inquiry Society of Ireland," April 1874, vol. vi., part xiv., p. 383*) was recently made to the council of the Statistical Society about applying the recommendations of the Judicature Commissioners to our local courts, and in that Report the suggestion made was that the clerks of the Crown and peace should be consolidated by the office of the clerk of the peace being retained, and that the district registrars of the Probate Court should also be consolidated.

264. So that the clerk of the peace should be the officer retained instead of the three now existing?—Yes.

265. Are you aware whether any recommendation has been made by a Committee of the House of Commons upon that subject?—I believe there was a recommendation as to the county offices; they recommended the clerk of the peace and Crown to be consolidated, but I forget which office was to be retained.

266. Are you not aware that the officer to be appointed was to be the clerk of the Crown, and that he was to be appointed and paid by the Crown?—I do not recollect it; I know it was recommended to be consolidated.

267. Has any other objection been made to the separate venue in the county and city of Dublin?—Yes, the special juries in Dublin, both before and since the passing of the last Jury Act, have complained very much of the amount of duty cast upon them. For instance, at the after sittings of each term, there are twelve panels of jurors summoned. There are county and city special juries and county and city common juries for the Queen's Bench; county and city common juries and county and city special juries for the Exchequer; then the same for the Common Pleas, making twelve panels of jurors summoned at the same time. In the Probate Court, again, there are four distinct panels also. The Chamber of Commerce in Dublin complained about the jurors who are liable to be on both the city and county books. In order to strengthen the city panel, merchants having places of business within the city, but living in the county, have been compelled to attend the city panel in order to make it at all a satisfactory panel. These merchants are allowed to exempt themselves off the county panel; but there is considerable trouble; they have to go to the trouble of getting their names off the county panel. They complain of the attendance, and of the trouble that it creates.

268. Was any return made by the sheriffs in 1872 of the number of jurors summoned from this reason in Dublin?—No, the sheriffs did not make

Chairman—continued.

make the return; but in order to complete the statistic, I made an estimate of the number of jurors that would be summoned according to the usual practice on the subject; the number that may be estimated to have been summoned in the county of Dublin was 3,236; in the city of Dublin, 3,545. 269. In what year?—1872.

270. If the distinct venues were abolished, there would be only half the number of jurors summoned?—Just one-half.

271. If there was only one venue for the assizes and the superior courts, in what position would the eight cities and towns which are now counties of cities and towns, stand as to their other jurisdictions?—They would be exactly in the position that Londonderry and Belfast are in; that is, they would have a borough magistracy and separate sessions of the peace, and for all assize and county purposes they would be part of the county; in the case of Belfast, it should be mentioned that the separation from the county was originally carried out; the County Down part of Belfast ought to form part of the county of Antrim for assize purposes, so that the whole borough of Belfast might be thrown into the county of Antrim for assize purposes.

272. There would be no sheriff in those places, precisely as there is none in Belfast or Londonderry?—I should mention that the constitution of Londonderry is a very ancient one; it is under the charter of King James the First; they have had that constitution ever since the city was founded. The constitution of Belfast is a most recent one; when the town grew into sufficient importance the inhabitants were anxious to get a local magistracy and a local court, and they got their charter in 1867.

Mr. Butt.

273. It is not a charter, but a grant of a separate quarter sessions?—It is a grant by charter of a separate court of sessions of the peace.

Chairman.

274. How would the office of clerk of the peace be affected by such a change?—It would not be the least affected.

275. Are you aware of any reforms that have been proposed, besides those you have named, in the office of clerk of the peace?—Well, what I have already referred to, that of a consolidation of local offices recommended in the report to the Statistical Society. The extension of the jurisdiction of the county chairman in Ireland, by giving them the same jurisdiction that the local courts have in England and in Scotland, if it is to be successfully carried out, turns almost entirely on having an efficient registrar of the court. For having an efficient officer of the court, I have a very strong opinion that the plan is not to have a number of distinct local offices, but to concentrate the local offices as much as possible, and to have one really efficient local officer managing the office in each venue; if the venue is very large, to have one or two assistants to that local officer, and, in that view, if the clerk of the Crown and peace were consolidated, whichever officer is preferred, the clerk of the peace is the one that has the largest duties, and it is the one that, I think, ought to be maintained, to have the clerk of the Crown added to it and the district registrar of the Probate Court consolidated with it, the registrar of the recorder consolidated with it, and to have

288.

Chairman—continued.

one really efficient office for the local court business in each venue. If that office requires more than one officer then to have additional officers, but all in one office, and not to have a multitude of small offices where none of the officers are adequately paid, where they are not required to give their whole time, and where the business is not as well done as it would be if the business was concentrated in the hands of one officer and the office properly regulated.

276. Having these changes in view, would you deem it politic, in the meantime, to deal with the mode of appointment of the clerk of the peace?—Well, it occurred to me that that is dealing with a very small part of one of the most important and pressing questions of law reform in Ireland. What is required is to reform the local courts in accordance with the English and Scotch precedents, and the basis upon which it should be carried out is to have an officer under the same regulations as the registrar of a county court in England (the English Act requires the registrar to be a solicitor, and his appointment to be subject to the approval of the Lord Chancellor), and under the same conditions as the officer of the local court in Scotland.

277. Do you see any difficulties that may be thrown in the way of such changes as you have suggested, if the nomination of the clerks of the peace were transferred from the Crown to the town councils?—I merely suggest that making a transfer of that kind is dealing with but a very small part of a very large question.

Mr. Attorney General for Ireland.

278. I think it was you and Mr. Molloy that prepared Lord O'Hagan's Jury Bill?—Yes, with another, Mr. White.

279. There was a third, eh?—Yes, Mr. White.

280. Have you and Mr. Molloy prepared any consolidation bills in the direction you have been indicating here, consolidating all those offices?—No.

281. In Derry I do not understand from you how the juries are managed. Suppose now I had an action in the city, what jury would try that, or where is the jury found?—There is only one jurors' book for the county and city of Londonderry; it is only one venue. If you proceed in the Recorder's Court, there is a separate borough jurors' book for the Recorder's Court, and recorder's quarter sessions only.

282. Now as to Drogheda, have you any statistics in that book of yours that would show what the judges did in 1872 when they went to that town?—No, I have only statistics of the records here.

283. Will you tell me what records they tried in the borough of Drogheda in 1872?—In 1872 there was a defective return from one judge on the north-east circuit, and the statistics for 1871 were taken to make up the numbers, but there is only one record returned.

284. So I thought. Two judges go down to that town, and have a house there, I take it, at the expense of the borough?—Yes.

285. There was one record, then, in 1871; you are not certain that there was any in 1872?—This one may be taken as the correct number. I only mean that there is that note to the return given here.

286. Well, that is a half each assizes, according to your fractional mode of calculation?—Yes.

287. Is

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287. Is the prisoner a half, or is he a whole, that comes up to Drogheda for the two judges to try; was there a unit of a prisoner, or was he represented by a decimal or a fraction?—I took the number of persons for trial in the whole year.

288. But I want to know at the assizes, when the two judges go there?—I have not the assizes for prisoners distinct. The returns for criminal procedure were constructed many years before 1863, when I get charge of them, and they mix the assizes and quarter sessions together.

289. Could you tell me what it cost the judges going to that town separate from the county; they have to go to Dundalk afterwards as the chief town of the county; what does it cost going to Drogheda; do you know what is paid for the house?—I do not know.

290. Is that book published every year, or is it only at intervals?—Every year.

291. Every year there is a large book of that kind published?—Yes.

Mr. D. Phasket.

292. In those cases where the county and city goals have been amalgamated, who has the control of the goals?—Very likely there is a joint board of superintendence.

293. But you do not know as a matter of fact?—I do not know whether the city contributes only, or whether there is a joint board of superintendence, but the mode in which the goals are governed would admit of that.

294. Who appoints the gaol officers in those cases?—I do not know, but it is quite possible to admit a joint board of superintendence, and they would name the officers, so that they might have a joint arrangement, but I do not know whether it is so or not.

295. By whom are the various officers paid whose offices you suggest should be amalgamated with that of the clerk of the peace in the city of Dublin?—The clerk of the Crown is paid partly by presentment.

296. And how else?—And partly by fees.

297. That is, presentment of the grand jury?—No, presentment by the town council. He is paid by the town council presentment in lieu of fees, as already explained; other clerks of the Crown get salary by presentment of grand juries; clerks of the Crown also derive part of their income from the Crown.

298. On behalf of the Crown?—Yes.

299. Just explain how he is paid at present?—The clerks of the Crown receive altogether in Ireland, £12,800 per annum, and of that £10,000 per annum is paid out of the local rates; they do not receive any direct salary from the Crown, but when the Crown require copies of information, or anything of that sort, they pay for this like any prosecutor, and in that way the clerks of the Crown get about £3,000 per annum paid by the Crown solicitor, but that is strictly fees paid; but the whole of the substantial emoluments of the office, that is, £10,000 per annum out of £12,800, is paid out of the local rates, and in the city of Dublin it is paid by the town council, only it is paid in the curious anomalous way I have mentioned. Instead of being paid a fixed salary, he still gets compensation for fees that prisoners used to pay him in the reign of King George III.; and although the office of all the clerks of the Crown in Ireland has been reformed, the office of clerk

Mr. D. Phasket—continued.

of the Crown in the city of Dublin has never been reformed to the present time.

300. Then who pays the salaries of the district registrars of the Court of Probate whom you propose to amalgamate also?—I think they are paid out of the general taxes, but they are paid in lieu of fees; there are court fees levied, you know, and then I think they are on the Votes; but the court fees amount to a very substantial sum.

301. In that case of the city of Londonderry, where there is only one venire, who makes up the jury panel there?—The sheriff; there is one sheriff of the county and city; then for the borough of Londonderry and the recorder's court, it is the clerk of the peace that summons the jury, and not the sheriff.

Mr. Gregory.

302. Can you give us any information of the population of those places of which you have been speaking; I will take Carrickfergus, for instance?—Yes, the population of Carrickfergus is 9,452; then Killiney is 12,864; Galway, 15,184; Drogheda, 14,369; Waterford, 23,337; Londonderry, 25,242; Limerick, 39,828; Cork, 78,382; Belfast, 174,384, and Dublin is about 240,000; I have only the population of the metropolitan police district here, and not that of the county of the city.

303. Then, as I understand from you, 428 jurors were summoned in Carrickfergus in the year 1872?—Yes.

304. There being no prisoners and no records?—Yes.

305. I suppose there was not any very large number of jurors who attended upon those summonses?—Oh, yes, they would be liable to be fined if they did not attend.

306. Did they attend?—I have no doubt they did to some extent.

307. Who pays for the summoning of these jurors?—The sub-sheriff.

308. Of the county?—No, it is the sheriff; it is part of his expense, and he has certain fees that he is entitled to.

309. And who pays those fees?—The persons who employ him to levy decrees or writs.

310. But, as I understand, there were no prisoners and no records in the year 1872?—But I mentioned that they had civil bill decrees.

311. How many civil bill decrees had he?—He had nine civil bill decrees, and he had eight writs of execution from the superior courts.

312. Then do you mean that his fees on the civil bill decrees and those executions paid his charges?—I do not know whether they did or not.

313. Is that all the remuneration he receives?—Well, I do not recollect at this moment whether under the Grand Jury Act he receives anything. If you would send for the Grand Jury Act, I could ascertain. I rather think he gets some salary out of the local rates.

314. As I understand, in the year 1872 they summoned 428 jurors for nothing?—No; there were 46 of those who had real duties to discharge; I mean the grand jurors, to manage the fiscal business.

315. Well, that leaves you something like 380 summoned for nothing?—Yes.

316. I want to know who paid for the summoning of those jurors?—I cannot tell how far it ultimately

Mr. Gregory—continued.

ultimately came from sheriff's fees and how far from local taxes.

317. And the same thing, I suppose, applies to these other places that you have mentioned?—Yes.

318. Now with respect to these processes of the county court, I am not sure whether I understand you quite distinctly about that; do I understand you that their orders are carried out by the sheriff of the city?—Yes.

319. The orders for the payment of sums of money, for instance?—Yes.

320. That is placed in the hands of the sheriff of the city, is it?—Yes.

321. And carried out by his orders?—Yes.

322. Then does he receive a separate fee for that?—He does.

323. He is, in fact, in lieu of the bailiff of the county courts?—Yes.

324. Then as to these civil cases before the magistrates, I understand you to say that that is a concurrent jurisdiction with the county court?—Part of it is.

325. I suppose the orders of the magistrates in those cases are carried out by the police?—I believe so.

326. Is there any reason why the police should not execute the orders of the county courts as well?—I think, as they carry out the magistrate's jurisdiction generally, there is no feeling against it, but there would be a feeling if they were employed in other matters.

327. What? If they were employed for the county court, for instance?—I think so.

328. Are county courts unpopular there in Ireland?—No; but the police are not connected with the county court, whereas they are connected with the court of petty sessions.

329. But you say they have concurrent jurisdiction, so that, in fact, they execute the same process?—No, it is not so; it is in very trifling sums that the magistrates have jurisdiction.

330. Well, I will put my question over again. You say the magistrates have jurisdiction in civil cases?—Yes, of very small amount.

331. Well, the county courts have jurisdiction in civil cases for very small amounts also?—Very much larger.

332. But they have in small amounts also, and to the extent that the magistrates' courts go, it is a concurrent jurisdiction with the county courts?—It is.

333. And you say the orders of the magistrates are carried out by the police in those cases?—Yes.

334. Why should not the police, then, carry out the orders of the county courts as well?—Well, they are in attendance on the magistrates' courts; they are part of the magistrate's court; they enforce the fines of the magistrate's court; and these small masters are in the nature of fines. I mean they are about the same amount as the fines which they ordinarily enforce, and therefore the police are accustomed to that mode of administering the law. But with regard to the other courts it would be an unusual thing.

Sir Colman O'Leighlin.

335. You have given us some very interesting statistical information. Have you read the Bill upon which you have been giving evidence?—Yes, I have.

336.

Sir Colman O'Leighlin—continued.

336. You have seen the title of the Bill—“Municipal Privileges, Ireland”?—Yes.

337. The preamble of a Bill generally states what the object of the Bill is?—Yes.

338. Then, as you have given us evidence on the question of statistics, I want to ask you a few questions upon the preamble of the Bill. Is it the fact that “Before and at the time of the passing of the Acts for the regulation of municipal corporations in England and Ireland, passed respectively for England in the sixth year of the reign of His late Majesty King William IV., and for Ireland in the fourth year of the reign of Her Majesty the now Queen, the municipal corporations of cities and towns which were counties in themselves, had both in England and Ireland enjoyed and exercised from very ancient times, and by virtue of ancient charters and usages, the privilege and right of appointing sheriffs for such counties of cities and counties of towns”?—I believe so.

339. Is it the fact that the privileges have been enjoyed by corporations in England, but have been taken away from those in Ireland?—I believe so.

340. Now, do you see, in your great experience, any objection to assimilate the rights enjoyed by municipal corporations in Ireland to those enjoyed by similar bodies in England and Scotland?—Certainly not.

341. Then the statistical information which you have favoured us with to day has nothing to do with the question dealt with by this Bill, of assimilating the state of things in municipal matters in Ireland to what exists in England and Scotland?—Oh, no.

342. With respect to the evidence you have given us to-day, it has been principally as to the propriety or impropriety of continuing these small jurisdictions?—Yes.

343. Are you aware that they exist in England?—I believe so.

344. And would you propose to abolish them all in England as well as in Ireland?—Oh, certainly.

345. And, in fact, do away with all those small jurisdictions in England?—Yes, certainly.

346. You were asked about the expense of summoning juries. I believe, as far as the cities and towns are concerned, those expenses are very small. I suppose the sheriff's bailiff would serve the summonses?—I think, in a place like Carrickfergus, for instance, they would be very small—a few shillings.

347. He does it as part of his salary?—I fancy, as they all live within a very small space, it is a trifling expense.

348. And whatever it is, it is paid by the sheriff or sub-sheriff?—Yes.

349. I suppose the inconvenience of going up to the court-house in a town like Carrickfergus, and being told there is no business, is not very great?—It is not very great.

350. And besides that, the fact of there being no business is generally known in the town, if there is no business?—Yes.

351. I suppose many of the jurors would go to see the judges whether they were summoned or not?—Well, they would not, because they have to go up to Belfast, which is eight miles off.

352. In Cork you propose to abolish, with the city jurisdiction, all the power of laying venues

Dr. W. N.
Hassett.

15 May
1874.

Dr. W. N.
Hawkes.

15 May
1874.

Sir Colman O'Leary—continued.

in the city, and you would make one venue for the county and for the city?—Yes.

353. Do you think that the commercial citizens of Cork would like to have all their commercial cases tried by a jury of farmers from the county; you know we had evidence yesterday that, according to the present jury system, the great majority of juries are farmers; now do you think that the citizens of Cork would like to have their commercial cases, dealing with corn and other matters, tried by farmers?—Well, one of the causes of the juries being farmers in many of the southern counties, is because the town population of the chief town in each county is taken out of the district by the existence of these very counties of cities. In the northern counties, where there are no counties of cities, except Carrickfergus, which is an infinitesimal place, Belfast and all the other towns, such as Lurgan and Ballymena, and others like that, supply jurors to the county at large; there is thus always a substantial number of town as well as agricultural jurors, whereas one of the evils in these counties of cities is this; I will instance Limerick; there the very evil you complain of, of the county jurors being agricultural, is caused by the withdrawal of the city of Limerick from the county at large. It may be looked at in two ways; it may be convenient to the Cork merchants that they should have their cases tried by commercial juries, but recollect that they could lay the venue in Dublin if they wanted a commercial case tried; but one of the defects in the Jury Act which struck me at the time, is that in the case of all these southern counties of towns the town population is taken out of the county at large altogether.

354. Do you think, as far as your knowledge extends, that the merchants of Cork would like to have this jurisdiction of the city abolished, and transferred to or merged in the county?—Well, I really do not know that; I know the merchants in Belfast are very well satisfied.

355. But as to Cork, I am asking you?—I do not know Cork.

356. Do you think in Dublin they would like to have the jurisdiction of the city of Dublin abolished?—I believe they would like to have it amalgamated with the county.

357. You believe they would in the city of Dublin?—I believe they would, to get rid of the double amount of attendance.

358. Are you aware of any memorial presented to Her Majesty's Government, or otherwise, by the citizens of Cork, praying for that?—No.

359. Has there been any memorial or resolution passed at a public meeting in Dublin, to have the city of Dublin amalgamated with the county in this respect?—No; I have not heard of any.

360. Do you think there ought to be no sheriff for the city of Dublin?—I think there ought to be a sheriff for the city and county.

361. But no sheriff for the city of Dublin?—I think that the reform ought to be carried out completely.

362. Do you think there ought to be no sheriff of the city of Dublin?—Yes; no separate sheriff, but only one for both city and county.

363. Has there been any public meeting or memorial as to Dublin?—No.

364. Do you think the sheriff of the city of Cork ought to be abolished also?—I think so;

Sir Colman O'Leary—continued.

the same as Londonderry and Belfast, No separate sheriff for city, but one for city and county together.

365. And in Limerick and all the other towns, you think the sheriff ought to be abolished?—Yes, in the same way.

366. Have you ever heard complaints by any persons who have been nominated sheriff, either of Dublin or Cork, of the uselessness of the office or the expense attending it?—Not the least.

367. Is it not considered an honour, in Dublin and Cork, to be appointed a sheriff of the city?—Certainly.

368. And would you abolish those offices, without any regard to the feeling of the localities?—Well, the effect would probably be, as it is in the north, that a merchant would be made sheriff of the county, as is the case in Antrim, and the difference is this, that a Belfast merchant would be sooner sheriff of the county of Antrim than sheriff of Belfast alone; and the fact is the mayor of the town is put on the Antrim grandjury. So that you must look at both sides of the question.

369. Supposing you were to abolish the office of high sheriff of Dublin and high sheriff of Cork, and high sheriff of Limerick, and all those other places, it would not affect the office of clerk of the peace; he would be necessary still?—Yes.

370. And all you would do would be to do away with these high offices which are no expense, and keep still the office that is an expense to the citizens?—I think the inconvenience of the separate jurisdiction is a very serious burden to the juries of Dublin; they complain most seriously of it.

371. Then, as I understand, all the evidence you have given to-day is entirely ultra the object of this Bill?—Yes, except so far as relates to the existence of separate jurisdiction and the offices consequent theron.

Mr. Butt.

372. I would like to ask you one question affecting myself. I think you said there was a mistake in the Bill about the county of Londonderry?—Yes.

373. Is there a mistake in the Bill, because if so, we will correct it. Is not there a city of Londonderry?—Yes.

374. Is not there a council of the city of Londonderry, and is not that the proper designation of that corporate body?—I was under a misapprehension. It appeared to anyone reading it that it was dealt with as if it was a county of the city, exactly like the other eight counties of cities and towns, and in Thom's Directory you will find it described as the county of the city of Londonderry. It is not so, as you will see at once if you take the Municipal Corporations Act.

375. Is not the proper designation of that county, which includes both the county and city of Londonderry, "the county called the county of the city of Londonderry." Just read that clause of the Municipal Corporations Act (*having a statute to the witness*)?—The proper title is, as I said before, the sheriff of "the city and county of Londonderry."

376. No, that is not the proper title. Just read the designation as given there, and you will find it is exactly the same as in this Bill?—He shall act as sheriff of the county named the city and county of Londonderry."

377. Well, is not that the same designation as is contained in this Bill?—Well, I confess I read it wrong;

Mr. Butt—continued.

wrong; the designation in the Bill is correct, but it conveys the impression, at a first glance, that Londonderry is the same as the eight counties or cities or towns named in the Bill, else why introduce it?

378. That anomalous county which we have in Ireland is called the county of the city of Londonderry?—Yes, "the city and county of Londonderry."

379. And that is its legal designation?—It is.

380. In old times, did not the corporation of the city of Londonderry appoint the sheriff of that county?—I believe so.

381. You are greatly in favour of amalgamating these venues?—Yes.

382. Have you considered the advisability of amalgamating those of London and Middlesex?—They have been for criminal purposes.

383. But for civil purposes, are you in favour of amalgamating the venues of London and Middlesex?—Well, it has been proposed; and I certainly should be in favour of it.

384. Are you aware that it was proposed to abolish the separate jurisdictions in Drogheda of the county and town?—No, I am not, except in my own Report for 1870, which I read to the Committee.

385. Then you do not know that immediately it was proposed there was a storm in Drogheda of the most extraordinary character, and that great resistance was shown to it by all the people; that there were meetings and petitions to the Lord Lieutenant and to Parliament, and all the rest of it; have you, in short, taken any pains to find out whether the people who have these ancient jurisdictions would wish their abolition?—No, I have not.

386. You simply treat it as a statistical theory, upon which you think it would be desirable to act?—Quite so.

Mr. Power.

387. The constitution of Waterford is very ancient, I think?—Yes.

388. One of the most ancient?—Yes.

389. There is no recorder of Waterford?—No.

390. And there is only one clerk of the peace?—There is a clerk of the peace for the city.

391. He acts for both city and county?—I do not know.

392. Do you know how many borough magistrates there are?—I do not.

393. The borough magistrates are not magistrates for the county?—No.

394. Are not the receipts of the corporation very large in Waterford?—Yes; they are 15,000 £ a year.

Marquis of Hastings.

395. You were asked whether you knew of any public meeting which had been held in favour of the amalgamation of these jurisdictions; have you heard of any public meetings, or any expression of public opinion being made, in favour of this bill?—No; I do not recollect any.

396. It is not a subject which has been very much considered in Ireland?—No; I think it is quite a new question.

397. You do not infer, as a matter of certainty, from the fact that no public meetings have been held in favour of the amalgamation of jurisdictions which you recommend, that it would be unpopular?—I am giving my opinion simply from the progress of law reform, and from the

0.26.

Marquis of Hastings—continued.
exact fact of what the cost of the matter is, and the exact time in which the change could be carried out, or how it could be carried out. I have not considered public opinion at all; public opinion usually grows in these cases. When the facts are stated, public opinion follows the facts; it does not precede them.

398. Your recommendations are based wholly on the inconvenience to which the jurors are submitted in being summoned in unnecessary numbers?—That is what attracted my attention first to it; but once my attention was attracted to it, all the other incidents of increased expense, and other inconveniences, came under my notice. Then the next thing that attracted my attention very much to it was when I, with some others, were looking very closely into the question of the reform of the local courts, we found that these small offices stood in the way of that reform instead of helping in it.

399. Drogheda, I think, is the only town which has a separate gaol?—Limerick and Cork, too.

400. Then Limerick, Cork, and Drogheda are the towns?—Yes.

401. Separate from the county?—Yes.

402. Do you know whether the inspectors of prisons have frequently recommended the closing of the Drogheda gaol?—They have reported very strongly in favour of the proposal of amalgamating it with Dundalk. The grand jury of the county of Louth has laid out a large sum of money in having an improved gaol, which is an excellent model prison, erected in Dundalk. Then the Drogheda people have not built anything of the kind, and the result is that the inspectors complain that prison discipline is not exercised in the way it would be at Dundalk. I may mention, as to Drogheda, the number of officers compared with the number of prisoners. The daily average number of prisoners is 15, and the officers nine.

403. The maintenance of that separate gaol entails a very considerable expense on the rate payers of the town of Drogheda, does it not?—It does.

404. But, nevertheless, the abolition of it has been protested against?—Yes.

405. It would entail the abolition of several small offices?—I have no doubt those small jurisdictions have a very strong feeling as to maintaining them, and they feel if they give way upon one point they will be giving way upon all. Another peculiarity of Drogheda is that it is not a county town. The assizes would go from Drogheda to Dundalk, and then between neighbouring towns there is very often a natural feeling, like there was between Liverpool and Manchester, of rivalry, and they feel that their dignity would be affected by it. There is no doubt about that.

Mr. Attorney General for Ireland.

406. Do not you think, also, they like to see two judges and the bar coming down there and doing nothing but spending money; do not you think that also operates with them?—There is a certain pride taken in the ancient jurisdiction; they would like to retain it.

Sir Calman O'Leary.

407. How many miles is it to Dundalk; how long by rail?—About an hour and a quarter.

408. And the judge, if he has nothing to do, can come back again in another hour and a quarter?—Yes.

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Mr.

Dr. W. N.
Hawes.

15 May
1874.

Dr. W. N.
Hancock,
15 May
1874.

Mr. Butt.

409. Do not you know that the judges stopping at Drogheda does not cost the county at large a single penny?—I think it is included in their circuit allowance.

410. But there is no separate allowance for Drogheda?—No; but it is part of it.

411. But would the judges get the less if that separate jurisdiction of the county town of Drogheda was abolished?—No.

412. Do not you know the salary is fixed for each judge, no matter what circuit he goes?—No.

413. But, in point of fact, is not any expense that is incurred by maintaining the separate jurisdictions very trifling?—I think if you added up all the officers and all the expenses the aggregate is very considerable.

414. Whatever it is, is not it borne by the ratepayers of each separate jurisdiction?—Yes.

415. And you say there is a strong feeling in favour of incurring that expense for the sake of

Mr. Butt—continued.

maintaining their own jurisdiction?—That remains to be seen.

416. Is not that so?—Of course there are some people very strongly opposed to it, of that I have no doubt.

Mr. Gregory.

417. The judges, I presume, pay their own expenses of attending the assizes?—They do, but they get a fixed sum in addition to their salary for that; they get an annual sum.

418. It is on the same footing as the English judges, and therefore in attending these assizes, there is so much expense to the judges thrown away?—Yes.

419. I suppose there is a considerable portion of the time of the judges consumed in going to these assizes two or three days, attending each of them in going and coming?—No, because the only one that involves expense is Drogheda, and it amounts to two days in the year.

Mr. THOMAS DE MOLEVNS, Q.C., called in; and Examined.

Catharine.

Mr. T.
De Molevns,
Q.C.

420. What position do you hold?—I was Chairman of the county and city of Cork; I am chairman, and have been so for the last 12 years, of the county and city of Kilkenny, and I have also been Crown prosecutor for a number of years for the county and city of Limerick.

421. You have stated in evidence before another Committee of this House some facts with regard to the inconvenience at present occasioned to the juries at Limerick, and, I think, also, at Kilkenny, by the present system of separate venues?—As to the advantages that would be derived from amalgamating the county and city juries, I may add that I have formed a very strong impression and opinion of the disadvantage in the public interest of retaining the small separate venues for criminal business in the smaller cities, at all events, of the "counties of cities." Perhaps, before I speak further, in reference to some observations that have been made, and also in order to explain the position of chairman of counties, where counties of cities exist within the counties, to English Members, I may as well describe the position that the chairman holds in regard to them. Taking the case of Kilkenny, the chairman of Kilkenny is the chairman of the county and he is chairman of the city of Kilkenny also. He is chairman of the magistrates of the city of Kilkenny exclusively at present for criminal business; he is chairman of the county of Kilkenny for both civil and county criminal business. I may add, the town or city of Kilkenny is by a section of the Civil Bill Act, made a town within the division of the county for what are called Civil Bill purposes; that is, for civil business, as distinguished from criminal business; in fact, if I may use the expression, the city of Kilkenny is delocalized for the city business of the Sessions within it.

Marquis of Hartington.

422. For the civil business?—For the civil business, I am merely now explaining the general way in which the business arises. At Kilkenny I hold a court in the city as chairman with the borough magistrates for criminal business arising at the quarter sessions within the town of

Marquis of Hartington—continued.

Kilkenny. First a grand jury is sworn, consisting of 23 grand jurors. Then if there is any criminal business, of course a panel has been made out, and the jurors are summoned for that business. I find by Dr. Hancock's statistics that I have the good fortune to share with the judges of assize, an average, for trial of two prisoners, who appear to be integers, and not fractional parts or decimals of prisoners, as in some of the other cities. However, the ordinary course is this, that the grand jury having been sworn, there are no criminals to be tried, and one of the expenses thrown upon the sheriff by his courtesy is to present me with white gloves, of which I have a very considerable collection.

Mr. Gregory.

423. And you have had 426 jurors summoned?—Summoned, certainly, as appears by the statement of Dr. Hancock. I may also add, in reference to statistics, that it appears there are 148 jurors in Kilkenny, that my quarter sessions are held four times a year, and the judges attend within the city twice. That necessitates, therefore, six summonses of 23 jurors, which will be 138 grand jurors out of the 148 within the year. Then if there is business to be done, if there is a case of larceny, or anything of that sort, of course we must have jurors also for the trial of those cases. I may, perhaps, further add that this is what I should call the ordinary state of things prevailing in the towns with which I am acquainted; that is in Kilkenny, over which I preside as chairman, and Limerick, in which I prosecute for the Crown. The same state of things ordinarily prevails in both these jurisdictions. There is seldom any prisoner to be tried, if there is one, it is probably for a very light class of offence. Then the disadvantage to which the Chairman alluded, and which I stated in my evidence yesterday, as respects both the county of Limerick, and Kilkenny also, which I think rests very much under the same circumstances, is the sameness, the uniform character of the jurors who, under the present system, have to try important county cases. They are almost exclusively

Mr. Gregory—continued.

sively of the our class, that is occupying farmers; and what I ventured to suggest in my evidence, and which I would now repeat is this, that if an amalgamation took place of the city juries with the county panel, both panels would be considerably improved. You would educate, by the introduction of the superior class of town jurors, the farmers, up to the point we all desire to see, so that they should not only take part in the administration of justice, but take part creditably, and with the intelligence which is so desirable. At present the operation of the system is that the city jurors (speaking now of the smaller class of "counties of cities," such as Limerick and Kilkenny) have comparatively but little business to do. That little business is done at no expense, because they serve only within their own limited jurisdiction; what I should propose is this, that by abolishing the local venues they should be put on the county panel, taking their part on it, under the 14th section in the alphabetical arrangement, as is the case with the county jurors in that panel. Then in the same manner the county panel would take part in the administration of justice within the more limited venue of the "county of the city." This is the ordinary state of things. But sometimes an exceptional case will arise, and then the disadvantage of the limited local venue is equally remarkable. Occasionally crime of a more serious nature will occur in those towns, and a very remarkable instance of such a case is at present under investigation; I allude now to Limerick. In Limerick I think there are 338 jurors. A very bad murder was perpetrated there in November last—a murder which took place within the city on a Sunday evening, upon a servant woman, who was alone at the time in one of the houses in the principal street of the city. It is hardly necessary to state that a murder perpetrated under such circumstances startled and alarmed, and interested the whole town. In due course of time the person charged with the murder was put upon trial. After three days' investigation the trial resulted in what unfortunately too often occurs in Ireland—a disagreement between the jury. The case was thought to be of so much importance that the assizes were adjourned for the purpose of allowing no delay to occur in a second trial; and upon this occasion, after two or three challenges to the "array," as to which I spoke yesterday, challenges were taken to the poll for what is termed "an-in-difference"; 24 jurors were brought up one after the other; they were sworn; they were appointed; they were examined upon their oaths as to whether they were capable of giving a fair and impartial trial to the prisoner; not only were they examined by counsel, but they were examined rigidly by the judge, and they all swore that, having attended the previous trial, having heard and read the evidence, having discussed about it, and so forth, their impression was so strong and decided against the prisoner, that they were incapable of acting fairly on the trial; so that the panel, consisting of nearly 100 was called through. Some were challenged for the prisoner, some had served on the previous occasion; and the result was that, in the interest of the prisoner, the trial had to be postponed, and an application is now pending to the Court of Queen's Bench, which will be moved in the next term, to change the venue, as it is technically called, from the 0.58.

Mr. Gregory—continued.

county of the city of Limerick to a more impartial tribunal; and this in the interests of the prisoner, because naturally, the Crown could not put the prisoner on trial for her life where no less than 24 jurors in so small a locality sworn they could not give her a fair and impartial trial.

424. And you think, if the small venue of the city had been abolished, you would have been able to have formed an impartial jury in that case?—I have gone into what I fear is too long a narration, for the purpose of illustrating my impression of the unseensness of the tribunal in ordinary instances, and its mischievous character in the exceptional instances, when capital or serious crimes have to be investigated. In fact, I would as far as possible extend the area from which jurors are to be taken, and minimise the local influences to which they might be subject. I shall now be happy to add any information as to the working of the chairman's court, or the execution of the decrees which has been alluded to in the examination of the last witness.

425. I think we need hardly go into that; but supposing such a change were made as that which you have suggested, would there be much left for the sheriff to do in Limerick or Kilkenny?—I was going to suggest that formerly the sheriff had to execute by himself, or by what are called his bailiffs, all the civil bill decrees of the county court judges. That would apply to civil bill decrees in the county of the city. By an Act passed within the last two years that has been altered, with the exception of ejectments, which for particular purposes it was thought ought still to continue to be executed by the sheriff in person. All other decrees may be executed by the persons obtaining them or by bailiffs nominated by them. They are allowed to execute their decrees themselves by their own bailiffs. I may add, that I was instrumental, under the late Government, in procuring the original change which transferred the power of executing decrees from the bailiffs of the persons obtaining them to the sheriffs; thinking that all these matters ought to be entrusted to public functionaries, and not to be given to persons who had a direct interest for various purposes in what resulted too frequently in breaches of the peace; but there was an outcry throughout Ireland, that the sheriffs would not execute them. The change of the law to which I have alluded was made, and now the law is as I have stated, that all persons obtaining decrees may execute them by their own bailiffs; by persons nominated by themselves.

Mr. Godfrey.

426. What is the Act?—It is an Act passed within the last two years; but, as I have stated, the sheriffs are the only persons still to execute ejectments where the possession of land has to be taken.

Chairman.

427. You have heard Dr. Hancock's evidence of the amount of duty the sheriffs have to perform in such matters?—I have.

428. Do you agree with him that it is not very large?—Oh, no, it cannot be; the duties are almost illusory; that is, in counties of cities.

429. Are you acquainted with the duties performed by the clerks of the peace in Limerick and Kilkenny, to which you have referred?—Clerks of the peace appointed for the counties of cities?

430. Yes!—Well, there being no exclusive civil

Mr. T.
De Melgny,
q.c.
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Mr. T.
Dr. Molony,
a.c.
—
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1874.

Chairman—continued.

civil jurisdiction, there is but little business of that description for the clerk of the peace of the county or the city of Kilkenny; as far as regards the civil jurisdiction which I exercise there, my registrar is the clerk of the peace for the county, Kilkenny being merely made what is called a town within the division of the county, for the purpose of all civil business.

431. Then you cannot give us any information of the amount of work which falls on the clerks of the peace for those places?—No; I know nothing of them for fiscal purposes, for which there may be duties, but those I am not acquainted with; I speak only of the experience I have as regards the jury system and the administration of public justice, which is all that I have an interest in here. I may add that it appears to me also, but of course that is a matter for the consideration of the counties of the cities, that retaining the separate machinery for summoning juries and so forth, entails an expense upon them which would be avoided in various ways if their jurors were fused in the county panel.

Mr. Goldney.

432. Who makes out the jury list for the sheriff in the counties of the cities?—The clerk of the peace for the county or the city issues his precept to the clerk of the union within the city, exactly in the same manner as takes place with regard to counties, substituting the clerk of the peace of the city for the clerk of the peace for the county.

433. You do not come into contact with him at all?—No, excepting as revising the jury list and the voters' list.

434. But in the case of a criminal trial in the county of a city at quarter sessions, does the clerk of the peace act as officer of the court?—I am not sure whether he acts under that name, or as town clerk.

435. Who acts as your officer there?—A gentleman of the name of Waiters; but I think it is by some other name than clerk of the peace that he acts; at all events he is a distinct officer, and his duties are confined as far as concerns me to the criminal jurisdiction within the city.

436. Then as chairman of the county you do not know him in his official capacity at all as clerk of the peace; he does not come before you as clerk of the peace?—I am sorry to say I am ignorant of his exact title, but only in that respect am I ignorant of him, for he is a most excellent officer.

Mr. Gregory.

437. I understand that under this Act, which you say was passed two years ago, parties execute their own processes upon recovering debts through the Civil Bill Courts?—They are at liberty to nominate their own bailiffs; that is, the plaintiff or whoever recovers in the case, is at liberty to depute his own bailiffs.

438. That is he may enter and distrain?—What- ever powers are given to him by the Act these men are at liberty to execute.

439. He becomes officer *pro loco* since?—Yes.

440. Merely by the act of the party himself?—Merely by the act of the party himself; the party nominates to the sheriff the persons whom he elects to act for him as what are called the special bailiffs, and those persons get a deputation by warrant from the sheriff.

Mr. Gregory—continued.

441. And I suppose there is a small fee payable?—There is a fee.

442. Paid by the party?—Paid by the party against whom the decree is enforced.

443. Well, is not that gradually becoming, or will it not become a system under which a certain number of people will act as bailiffs for these processes?—No; the peculiar object that all these persons have is to nominate their own bailiffs.

444. Do you mean to nominate themselves?—No, not themselves, but to nominate persons in whom they have full trust and confidence.

445. That is what I mean; that there will be certain parties within the districts of these courts who will gradually get into their own hands the enforcement of these processes?—That is the very point which I doubt extremely; I think every person has his peculiar fancy, thinking persons specially named by himself will be more under his beads, and will execute his business more vigorously.

446. At any rate it is out of the hands of the sheriff practically?—The sheriff executes if special bailiffs are not named by the persons seeking execution.

447. Then the sheriff does it only in exceptional cases?—It is so, in fact, but the sheriff is the person still recognised by law, unless the parties designate their own special bailiffs.

448. And I suppose the responsibility rests with the party nominating, and not with the sheriff?—Yes, with the party nominating; I should add with regard to this Act, that there is a provision enabling the chairman to prevent any person whom he thinks has abused the process or acted improperly from ever again being nominated or appointed as bailiff. That is a sort of check given in order to prevent improper practices.

449. The process is the same as that for distress for rent?—Yes.

Mr. Lessore.

450. To what places in Ireland does this Civil Bill Court Act extend?—Throughout the whole of Ireland; there is a chairman for every county in Ireland.

451. Then does that apply to counties at large, as well as counties of cities?—Yes.

452. So that the abuse, if it exists at all, is an abuse where the sheriff has the power to issue execution as in England?—I do not think I stated there was any abuse.

453. I am coming to that in a moment. If there is any abuse which has arisen out of the practice under the Civil Bills Act, it is an abuse which is common to the whole of Ireland?—Clearly.

454. Common in counties at large and counties of cities?—If there is any abuse, it is an abuse of my state.

455. I was coming to that; but have you ever heard any complaint that this is a system which is abused?—I have had frequent cases before the first Act was passed which amended the old system; that is, there were breaches of the peace, and improper acts on the part of bailiffs nominated by persons obtaining decrees. Since the Act has been repealed I have not had any cases brought before me in which I can say my improprieties have been charged, and I offer no opinion at all now upon the system, because the Legislature has thought fit to pass the Act; and I always assume that whatever they have done has been done in their

Mr. Letman—continued.

their wisdom. It is my duty to carry out Acts of Parliament, not to criticise them.

456. Then, am I to understand that the system is not one which you would associate in any way with what is asked by this Bill?—Not in the slightest; it was merely in reference to something that arose, I think, before you came into the room.

457. As I understand, you act as chairman, which is like a recorder in England?—Well, it is county court judge and chairman of quarter session combined. In England you have the two offices separate; in Ireland they are combined.

458. And, as I understand, you not as county chairman in Kilkenny?—I am county chairman of Kilkenny, and chairman of the city.

459. And Crown prosecutor, as I understand, in Limerick?—Yes.

460. You are for educating county juries, as I understand, by making them act with the city juries in Limerick?—That is by infusing, if I may so say, an admixture of the city juries into the county panel, and making it one common panel for both purposes, so as to get merchants, shopkeepers, farmers, and, as far as possible, to diversify the persons who are to take part in the duties.

461. As I understand, you say the city juries of Limerick are a superior class to the farmers of whom you speak?—I think they are more apt; they have a more educated intelligence, they are more accustomed to the administration of justice.

462. With reference to that case of murder you spoke of, that was a murder committed within the city?—Yes.

463. Was there no means of removing the venue?—There is an Act of Parliament passed in the 4th George IV. or William IV., which recognises the evil, in fact, it is a legislative declaration of the evil to which I have just alluded; it provides that whenever a crime is committed within a limited jurisdiction, you may either lay the venue originally in the next adjoining county, with a suggestion of the fact, or you may apply afterwards to have the trial removed to the next adjoining county and have a *Auditor corpor* to remove the body of the prisoner to the county gaol and so forth, with all the minute details specified in the Act.

464. Well, but that is not a matter of much difficulty, is it?—There are a good many technicalities in it.

465. You are Crown prosecutor for Limerick?—I am.

466. Could you not have made a suggestion that that case of murder should be tried in the county?—It might have been done originally.

467. If that had been done, you would have removed very much the difficulties that you say there were in having that case tried by city juries?—It would have removed very many of the difficulties that were not anticipated beforehand, and which arose under peculiar circumstances ultimately, *inasmuch*, as there was a trial and a disengagement on the part of the jury, and the difficulty arose on the second trial.

468. Assuming the provisions of this Bill to be passed, in so far as Limerick is concerned, you could avoid the repetition of such an evil by a suggestion under that Act of Parliament?—You could, of course; but then again, in justice both

Mr. Lester—continued.

to the prisoner, as well as to the Crown (for I assume that prisoners ought to wish to have intelligent juries to try them), they would be likely to obtain more intelligent juries in the city than in the county at present; therefore, it is a choice of difficulties.

469. So that, in truth, the transfer of the jurisdiction to the county would be bad for the prisoner in the city?—No, I will not say that, because with the admixture of the jurors which I suggested it would be a mixed jury, and probably a better one than any purely local jury would be.

470. Now with regard to Cork?—I was chairman of Cork, but Cork appears to me to rest upon different principles, and it is many years since I have been there, and I do not wish to travel out of matters that I am more immediately cognizant of.

471. But as far as your knowledge goes, there is no objection, in your mind, to the appointment of the sheriff by the corporation of Cork?—That is a matter which is not within my province to offer an opinion upon.

472. Well, but surely, whether in your knowledge or not, you can form some judgment upon it?—I have carefully avoided giving any opinion as to the appointment of sheriff, either by the Government or the town council; I have confined my evidence to those matters relating to the administration of public justice with which I am familiar; it would be desirable, if possible, to amalgamate the juries, and that I think is a very much greater object than my question as to the retention of the sheriff in limited jurisdictions.

473. In the counties of the cities that you know in Ireland, the clerk of the peace does not summon the jury?—The sheriff summons.

474. And selects?—He has no power of selection now, although that is a term which is used in the Act.

475. He has a power of selection in the jury list when you have once settled it?—If you call selection (and that is the term which is used in the Act, although I confess it always appeared to me not a very appropriate term) a process which involves no choice, because he is obliged to go by the alphabetical and dictionary order of the names.

476. Take the case of a jury panel, that panel is in the first instance selected by the sheriff of the county in counties?—There is a very recent Act which you are not, perhaps, aware of, passed within the last two years; but up to that time the sheriff had the power of selecting whom he thought proper. It is changed now, and he has no power of selection; you must take them in what is called "dictionary" and "alphabetical" order.

477. Then he having selected, the sheriff selects them, or takes them by ballot?—In criminal cases, when the jury panel is returned into court, they are called still in regular alphabetical order. I suggested they should be balloted for, as in civil cases.

478. But, assuming this Bill passed, that could be done equally under this Bill?—Everything could be done, whether the sheriff is appointed by the Crown or corporation, or any other imaginable body.

Sir Cobhan O'Leghlen.

479. I understand you very fairly to state that you offer no opinion at all upon this Bill?—No, it is not my province to do so.

Mr. T.
De Motte,
Q.C.

15 May
1874.

Mr. T.
De Moleys,
Q.C.
15 May
1874.

Sir Colman O'Leary—continued.

480. The evidence you have given is with regard to some amendments, and some important ones, as to the constitution of juries?—Yes; in the interests of public justice.

481. You mentioned a very peculiar case that occurred in Limerick last summer, the disagreement of the jury, and your being unable to get another jury, in consequence of the jurors having formed opinions?—Yes.

482. Is it your impression that the same difficulty would perhaps have arisen in the county in consequence of the publicity of the case, and that you might have had the same challenges in the county even if it had been tried in the county?—It might have arisen; and I think, after what passed, jurors would have made use of that excuse for the purpose of avoiding service.

483. You think it might have arisen, at all events?—Possibly.

484. The particular case you have mentioned excited as much interest and notoriety in the city and county of Limerick as the great Tichborne case did in London and the county of Middlesex?—It excited as much interest in the city.

485. And in the county?—I will not say that.

486. There is one other matter upon which I wish to ask you a question. You informed us that you have had a great collection of white gloves presented to you?—I have, owing to the courtesy of the sheriff.

487. For want of criminals?—For want of criminals.

488. I believe the same thing has happened to the judges when they have come to Kilkenny also?—Frequently.

489. And I assume that if the crimes in Kilkenny were committed in the city, they would be tried either by you or by the judges?—Certainly: or by the magistrates in the smaller class of cases.

490. Then, when I understand that the population of Kilkenny is 12,564, it appears to me your evidence speaks very creditably as to the peace of the city?—Most creditably; and I shall be very glad to have it so recorded.

491. I believe, also, the same thing would apply to Drogheda, where the population is 14,000, where there have frequently been no criminals; that also is a very strong fact going to their credit?—I think it applies very generally throughout Ireland, except one peculiar class of crimes which exists in particular districts.

492. In fact, in your experience in Ireland as a Crown prosecutor, and as chairman in several counties, may I take it that you think that, as far as regards crime, Ireland presents a favourable instance with respect to the absence of crime, except that peculiar character of crime?—I think so.

Mr. Butt.

493. Were you in Limerick when the judges received their pair of white gloves in that city?—They constantly do.

494. And do you recollect the judge saying that such a thing would not have occurred in the same sized town in England?—I was very happy to add my testimony to the same thing. I may say that, as Crown prosecutor, I feel it very frequently.

495. The same thing happened in the city of Cork this summer, no doubt?—I believe so, but I was not in Cork.

496. Are not you aware that that Act enabling

Mr. Butt—continued.

you to send up an indictment in the county, is an exact transcript of an Act passed in England in the year 1798?—I fancy it is so; that is to say, I do not know that it is an exact transcript, but it is very similar. Its provisions are very complicated in some respects.

497. Not as to sending up indictments?—Not originally perhaps, but when you come to transfer the case, they are so.

Marquis of Hartington.

498. Your suggestion that the county and city panels should be amalgamated would have a very small effect on the juries' book; I mean the mixture of the city juries would be very small in comparison with the number of the county juries?—I will take the county of Limerick; I made the suggestion, yesterday, that the qualification should be raised to 30*l.*; that would leave about 1,350 county jurors; then you would have a fusion of 338 city jurors, which would be a very considerable admixture.

499. Yes; but as it is, the numbers stand 3,346 and 330?—I think not at the 30*l.* qualification; I should say, in round numbers, with the 30*l.* qualification in Limerick, it might be about 2,400 or 2,500.

500. I see that in the city of Drogheda there are only 94 jurors on the book?—Not only is that so but in some of the smaller Irish counties the limited number of jurors is very remarkable; however, they appear to be sufficient for all purposes.

501. With reference to the case which you mentioned, which took place in Limerick, it would be still more impossible to secure a fair trial in Drogheda if a case of importance took place there?—Certainly. I do not suppose they would attempt it, because you must first of all take the grand jury out of the number of jurors, you must then allow for a number of challenges, and for those whom the Crown would order to stand aside; possibly, also, for the coroner's jury, and by the time all those elements were eliminated the residuum would be extremely small.

Mr. Butt.

502. Do not you know, in point of fact, of many cases in which bills have been sent up to the adjoining county?—Not many cases.

503. I mean originally sent up to the adjoining counties?—I do not think I ever recollect a case originally sent up.

504. Do you remember the State Trials, when Mr. Pigott and Mr. Sullivan were found guilty of sedition in Dublin?—I cannot call them to mind not being interested in them. If you ask me to say whether I believe such things have been done, I do; but I cannot speak from my own knowledge.

505. If a serious case of the kind occurred in Drogheda, and you were Crown prosecutor, would you send the bill to the county in the first instance?—Yes.

Marquis of Hartington.

506. Do you see much advantage in having a separate jurisdiction within which you cannot try an important case?—Well, I began by saying that I considered, as regarded the administration of public justice with which alone I am concerned, I see no advantage in maintaining a limited venue, but quite the contrary.

507. Usually

Marquis of Hertingford—continued.

507. Usually it is only inconvenient, but occasionally it may be much worse?—Yes.

508. Does that Act, providing for the change of venue, apply to felony and misdemeanour?—I

Marquis of Hertingford—continued.

think it does apply to all cases; frequently cases of misdemeanour may excite as much public interest and feeling as felonies.

Mr.
DeMolyn,
q.c.
15 May
1874.

Mr. DAVID AUGUSTINE NAGLE, called in; and Examined.

Mr. Butt.

509. You are the Mayor of Cork?—I am.

510. Can you tell me exactly what duties the sheriff of the county of the city of Cork has to discharge?—Well, I cannot go minutely into details, but from my general observation I can say he attends on the judges at the city assizes, and constantly at the recorder's court.

511. There is a recorder's court in the city of Cork?—There is.

512. Are there many cases tried there?—A great many cases; in fact, the recorder lightens the business very much for the city assizes.

513. Criminal or civil?—He has criminal jurisdiction; he has a very large jurisdiction in civil matters, and besides that, he has the ordinary civil jurisdiction of county chairman.

514. He has a court of record?—He has a regular court of sessions, which he opens every quarter.

515. First, as to the criminal business before the recorder, does the sheriff attend that court?—He does.

516. And are there juries returned by him there?—Yes.

517. And in the civil business of the record court, I am not speaking of the civil bill court, the sheriff attends there?—He does.

518. And returns juries?—And returns them; I have known very large cases to be tried there, in the record jurisdiction; the old forms of assumpit and trover, and the different other kinds of civil action prevail there.

519. If a jury is wanted in the civil bill court, who would return that?—The city sheriff.

520. A great deal of business is done there?—A great deal of business is done there.

521. He has also the execution of all writs in the superior courts in the county of the city?—He has.

522. And for the city assizes?—Yes.

523. And writs of inquiry, and everything of that kind?—In fact, Cork is a county of a city, and his duties within the city of Cork are the duties of a county sheriff.

524. Are you able to state what amount of business is generally done at the city assizes?—Very important records have been tried at the city assizes.

525. Could you tell me how many records you think there are?—I could not; but I know that the city assizes in reference to record business lasts over a number of days.

526. Would you say there are as many as 10 or 12?—I am sure that is a very moderate estimate of it.

527. How many were there last assizes?—I do not carry in my mind the precise number last assizes, but I have known very important cases to be tried, and a great number of cases; for instance, the city assizes are later than the county assizes, and persons who are not in time in the county lay the venue in the city; in fact,

688.

Mr. Butt—continued.

I remark that just as at the assizes on the English Home Circuit, practitioners from other parts of Ireland resort to the city of Cork, if they are not in time in any other jurisdictions.

528. But there is a considerable amount of business at Cork?—Oh, very considerable.

529. Are you able to say whether in the corporation of Cork there is a feeling in favour of this Bill?—Every one that I could speak to upon the subject has expressed himself in favour of it.

530. Did you petition in favour of it?—No; we do not much petition Parliament in these matters.

531. Do you know the feeling of the people of Cork generally?—Well, I have heard no expression against it, and that is a good sign in Cork; they are critical people there.

532. How do you think the proposal to abolish the separate jurisdiction of the county of the city of Cork would be received?—I think it would be received with great astonishment.

Chairman.

533. Are you acquainted with the gentlemen who have held the office of sheriff during the last 15 or 20 years in Cork?—I have a very fair knowledge of them. Some of the first citizens have held it.

534. Has any complaint been made of the manner in which they perform the duties of their office?—Well, no. I really think they would complain of the sub-sheriff if any cause arose; he is more or less the responsible officer in reference to the discharge of those duties.

535. Was any notice taken of this question in Cork till this Bill was brought forward before Parliament?—No. We really do not take much trouble about Parliamentary matters in Cork; we now look to some alteration perhaps in policy in the direction of assimilating our institutions, under a change of Government; that is the only object of interest we have.

536. Are you acquainted with the duties of clerk of the peace in Cork?—Yes, I am very fairly acquainted with them.

537. Can you tell us what they are?—He attends the recorder's court, and the recorder in Cork has a civil jurisdiction; for instance, he has civil bill court, I think, once a month, and then he has the current record business of his court.

538. The Parliamentary register is made out by the town clerk?—By the town clerk.

539. Would there, in your opinion, be any objection to the office of clerk of the Crown and clerk of the peace being held by the same person?—I have not heard that question canvassed, except that I believe it was a recommendation of a Committee presided over by The O'Conor Don, or at any rate he took an active part in it.

540. Do you think there would be any objection to it?—Well, I think ultimately not any objection.

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541. Do

Mr.
D.A.Nag.

15 May
1874.

Mr.
D. A. Nagle.
15 May
1874.

Chairman—continued.

541. Do you think there would be more work in the two offices than one man could do?—Perhaps, in small jurisdictions there might be no occasion for the two offices.

542. Would there be any occasion for the two officers in Cork city?—I am not prepared to say that off-hand; but I recollect some evidence given before that Committee, and I think a good many of the reasons for the consolidation of the offices as regards minor jurisdictions were very just.

Marquis of Hastings.

543. Who now appoints the clerk of the peace?—Under the Municipal Act, it is with the Government: I know the late Government did appoint the gentleman who now holds the office, Mr. O'Keefe.

544. Do you know how the sheriff is at present appointed?—The judges at the assizes return three names.

545. For a county or a city in the same way as a county?—Just the same, decidedly.

546. And are these names given by the retiring sheriff?—I think the sub-sheriff would have a good deal to say to the nominations; I am perfectly right in that. In fact, I think the high sheriff in Ireland is more or less appointed by the sub-sheriff, because the sub-sheriff has more or less a vested interest in the office, and it is his business to look ahead to find out who he is likely to find employment from, and I have known cases where sub-sheriffs have felt themselves very much interested as to getting certain names put on the judge's list by first of all asking whether they would be appointed sub-sheriffs if such a person got the appointment of high sheriff.

547. Possibly if anyone wished to get excused from serving the office of sheriff, he would tell the sub-sheriff that he did not intend to appoint him?—I have heard of some cases of that kind having arisen.

Mr. Attorney General for Ireland.

548. But if you were the sheriff you would not be dictated to by your sub-sheriff?—Well, I will put this case: if I were anxious for the office of sheriff, and the sub-sheriff had influence in that respect, and I knew there were certain channels through which that influence could be used—

549. But what channels. The sheriff sits

Mr. Attorney General for Ireland—continued beside the judge and the judge asks him for the names, and the sheriff gives him them?—We find in our locality that the sub-sheriff has a good deal to do with it, and, as a matter of fact, the office of sub-sheriff has been held by one family for almost 40 years.

Mr. Goldney.

550. The return is made actually by the sheriff, but he may be influenced by his sub-sheriff. I mean the return of the three names to the judges?—Yes, and the judges themselves have sometimes gone out of that list and put names on.

Sir Cuthbert O'Loghlen.

551. The practice in Ireland is this: three names being on the list, the first on the list serves as sheriff, but then at the summer assizes the high sheriff, for the time being, gives three additional names to the judge, the judge selects one which he adds to the two already on the list, and then he becomes third on the list?—I heard of a case not long ago in which, when the judge did not find a certain person whom he thought ought to be on the list, he said, "Why is not so-and-so on the list?" and he put him on.

Mr. Attorney General for Ireland.

552. Is the Parliamentary boundary and municipal boundary of Cork the same, because I see the population, according to the Parliamentary Return is 97,987, and there is an in-population of 78,751?—Yes, it is different; the ancient Liberties outside the present municipality were thrown into the county, and form what is called the barony of Cork.

Mr. Leader.

553. What is the municipal population of Cork?—About 78,000.

554. How many aldermen have you?—We have 14.

555. And how many councillors?—The difference between that number and 56.

556. You say chiefly the sheriffs have been the principal citizens for years past?—Yes.

557. And is it not your experience that it is generally the prelude to their filling the office of mayor of the city?—Well, I do not know that; I do not think that is the case; I have known gentlemen fill both offices.

A P P E N D I X.

PAPER handed in by Mr. Lessington, 12 May 1874.

ENGLAND AND WALES.

LIST of MUNICIPAL BOROUGHS, distinguishing those which have Quarter Sessions, and those which are not Parliamentary Boroughs, and exhibiting their Population according to the Census of 1870.

Appendix.

Aberconwy	-	-	-	8,396	Clythorae	-	-	-	8,217
* Aberystwyth	-	-	-	6,808	† Caldesais	-	-	-	26,381
Abingdon	-	-	-	5,815	* Congleton	-	-	-	11,344
† Andover	-	-	-	5,801	Coventry	-	-	-	30,470
* Arundel	-	-	-	2,806	Darlington	-	-	-	27,789
Ashton-under-Lyne	-	-	-	38,000	*+ Barnsley	-	-	-	4,078
† Basbury	-	-	-	4,105	*+ Doncaster	-	-	-	4,051
Bentley	-	-	-	25,021	+ Deal	-	-	-	6,954
Barnstaple	-	-	-	11,636	Desbrough	-	-	-	6,392
* Barrow-in-Furness	-	-	-	17,902	+ Derby	-	-	-	49,793
* Basingstoke	-	-	-	5,574	+ Devizes	-	-	-	6,860
† Bath	-	-	-	58,025	+ Devonport	-	-	-	30,094
Batley	-	-	-	20,938	Dewsbury	-	-	-	94,273
* Batley (W.R. York)	-	-	-	-	*+ Doncaster	-	-	-	18,710
Bennettsford	-	-	-	2,234	Dorchester	-	-	-	6,915
* Beccles	-	-	-	6,918	+ Dover	-	-	-	28,930
Bedford	-	-	-	16,849	Drewey	-	-	-	3,504
† Berwick-on-Tweed	-	-	-	12,281	Drifley	-	-	-	43,781
Beverley	-	-	-	10,918	* Damflask	-	-	-	4,658
Bewdley	-	-	-	8,038	* Durham	-	-	-	14,406
* Bideford	-	-	-	6,051	Evesham	-	-	-	6,887
† Birmingham	-	-	-	348,626	+ Exeter	-	-	-	36,648
Blackburn	-	-	-	76,337	Eye	-	-	-	2,936
* Blandford	-	-	-	1,380	+ Folkestone	-	-	-	5,294
Bodmin	-	-	-	5,072	*+ Foweyham	-	-	-	7,180
† Bolton	-	-	-	89,834	Finst	-	-	-	4,877
Bootle-super-Lincoln	-	-	-	16,182	*+ Folkestone	-	-	-	12,694
Boston	-	-	-	16,076	Gateshead	-	-	-	68,692
Bradford	-	-	-	145,827	*+ Gloucester	-	-	-	3,879
Brecon	-	-	-	6,818	*+ Gloucester	-	-	-	17,040
† Bridgnorth	-	-	-	5,971	+ Gloucester	-	-	-	15,380
Bridgewater	-	-	-	12,101	* Godalming	-	-	-	9,153
Bridport	-	-	-	7,086	*+ Godmanchester	-	-	-	2,363
Brighton	-	-	-	80,015	Grantham	-	-	-	6,028
† Brixton	-	-	-	132,524	+ Gravesend	-	-	-	31,183
Stockingham	-	-	-	3,702	Grassby	-	-	-	20,236
Burnley	-	-	-	31,605	+ Goldfield	-	-	-	10,105
* Bury St. Edmunds	-	-	-	14,026	Halifax	-	-	-	65,134
Calne	-	-	-	2,168	*+ Hanley and Shelton	-	-	-	30,942
† Cambridge	-	-	-	39,074	Hartlepool	-	-	-	13,164
Castorbury	-	-	-	20,801	+ Harwich	-	-	-	6,167
Cardiff	-	-	-	39,573	+ Hartness	-	-	-	22,289
Carrington	-	-	-	3,553	+ Haverfieldwest	-	-	-	6,622
Carlisle	-	-	-	31,074	* Heswall	-	-	-	992
† Combermere	-	-	-	10,409	+ Helston	-	-	-	8,307
Carmarthen	-	-	-	8,370	+ Hereford	-	-	-	15,235
* Chard	-	-	-	9,400	Hertford	-	-	-	7,104
† Chester	-	-	-	35,701	+ Horsham	-	-	-	5,479
* Cheshfield	-	-	-	11,425	Huddersfield	-	-	-	70,263
† Chichester	-	-	-	7,800	Huntingdon	-	-	-	4,942
Chipping Barnet	-	-	-	1,187	+ Hyde	-	-	-	3,263
Clapping Norton	-	-	-	5,640	+ Ipswich	-	-	-	43,126
Clapping Wycombe	-	-	-	-	Kendal	-	-	-	13,442

* Not Parliamentary.

† Quarter Sessions.

Appendix.

LIST OF MUNICIPAL BOROUGHS—continued.

Kidderminster	-	-	-	-	19,653	† Rochester	-	-	-	-	16,164
† Kingston-on-Hull	-	-	-	-	16,237	* Ramsey	-	-	-	-	2,035
* Kingston-on-Thames	-	-	-	-	16,459	* Rotherham	-	-	-	-	3,899
* King's Lynn	-	-	-	-	17,248	* Ruthin	-	-	-	-	3,899
* Lancaster	-	-	-	-	2,935	* Ryde	-	-	-	-	11,934
Lancaster	-	-	-	-	269,401	* Rye	-	-	-	-	2,854
† Leicester	-	-	-	-	95,684	* St. Albans	-	-	-	-	8,368
Lewes	-	-	-	-	5,865	St. Ives	-	-	-	-	7,067
Levisham	-	-	-	-	10,753	† Saffron Walden	-	-	-	-	5,715
† Lichfield	-	-	-	-	7,380	* St. Helens	-	-	-	-	45,240
Lincoln	-	-	-	-	96,708	Salford	-	-	-	-	124,835
Liskeard	-	-	-	-	4,700	† Sandwich	-	-	-	-	8,096
† Liverpool	-	-	-	-	491,545	Scarborough	-	-	-	-	24,244
Llandaff	-	-	-	-	1,481	Shafesbury	-	-	-	-	2,478
Llanelli	-	-	-	-	3,496	Sheffield	-	-	-	-	230,947
Llanidloes	-	-	-	-	74,132	† Shrewsbury	-	-	-	-	20,300
London	-	-	-	-	19,748	South Shields	-	-	-	-	44,732
* Longton	-	-	-	-	10,600	† Southampton	-	-	-	-	55,057
* Louth	-	-	-	-	5,078	* South Molton	-	-	-	-	3,973
† Ludlow	-	-	-	-	2,529	* Southport	-	-	-	-	15,065
Lyme Regis	-	-	-	-	5,556	* Southwold	-	-	-	-	3,011
Lymington	-	-	-	-	85,451	Stafford	-	-	-	-	15,457
Macclesfield	-	-	-	-	6,170	Stalybridge	-	-	-	-	21,043
Maidenhead	-	-	-	-	26,198	Standard	-	-	-	-	7,246
† Maidstone	-	-	-	-	6,287	Stockport	-	-	-	-	33,001
Malton	-	-	-	-	355,605	† Stockton-on-Tees	-	-	-	-	27,568
† Manchester	-	-	-	-	12,054	* Stratford-on-Avon	-	-	-	-	3,872
Margate	-	-	-	-	8,260	† Sudbury	-	-	-	-	9,908
Marlborough	-	-	-	-	68,583	Sunderland	-	-	-	-	26,338
Mamouth	-	-	-	-	4,574	Swansea	-	-	-	-	51,750
Merthyr	-	-	-	-	4,519	Taunton	-	-	-	-	4,559
* Neath	-	-	-	-	9,154	* Teabay	-	-	-	-	3,788
† Newark	-	-	-	-	12,218	† Tenterden	-	-	-	-	3,669
* Newbury	-	-	-	-	6,603	† Tewkesbury	-	-	-	-	5,103
† Newcastle-under-Lyme	-	-	-	-	18,949	† Thetford	-	-	-	-	4,167
† Newcastle-on-Tyne	-	-	-	-	121,100	† Tiverton	-	-	-	-	10,025
† Newport (L. of W.)	-	-	-	-	7,876	* Torrington, Great	-	-	-	-	3,889
* Newport (Mon.)	-	-	-	-	96,867	* Totnes	-	-	-	-	5,073
† Northampton	-	-	-	-	41,040	Truro	-	-	-	-	10,929
† Norwich	-	-	-	-	80,320	Tynemouth	-	-	-	-	38,309
† Nottingham	-	-	-	-	86,998	Wakefield	-	-	-	-	28,079
Oldham	-	-	-	-	89,619	Wallingford	-	-	-	-	9,973
* Oswestry	-	-	-	-	7,906	† Wallingford	-	-	-	-	49,452
† Ormskirk	-	-	-	-	31,554	Warrington	-	-	-	-	32,063
Pembroke	-	-	-	-	13,741	† Warwick	-	-	-	-	11,001
Penryn	-	-	-	-	3,629	* Welshpool	-	-	-	-	7,179
* Penzance	-	-	-	-	10,406	* Wells	-	-	-	-	6,517
† Plymouth	-	-	-	-	28,086	Wenlock	-	-	-	-	19,401
† Pontefract	-	-	-	-	6,352	Weymouth	-	-	-	-	13,267
† Poole	-	-	-	-	10,189	† Wigan	-	-	-	-	39,169
† Portsmouth	-	-	-	-	112,954	† Winchester	-	-	-	-	16,705
Preston	-	-	-	-	87,428	Wimborne	-	-	-	-	11,703
† Pwllheli	-	-	-	-	3,046	* Wisbech	-	-	-	-	9,378
† Reading	-	-	-	-	32,818	† Worcester	-	-	-	-	33,381
* Regent	-	-	-	-	15,916	† Wolverhampton	-	-	-	-	53,979
Retford (East)	-	-	-	-	5,149	* Wrexham	-	-	-	-	8,576
† Richmond	-	-	-	-	4,448	† Yarmouth, Great	-	-	-	-	41,792
Ripon	-	-	-	-	6,866	York	-	-	-	-	43,706
Rochdale	-	-	-	-	64,510						

* Not Parliamentary.

† Quarter Sessions.

SPECIAL

R E P O R T

FROM THE

SELECT COMMITTEE

ON

MUNICIPAL PRIVILEGES
(IRELAND) BILL;

TOGETHER WITH THE

PROCEEDINGS OF THE COMMITTEE,

MINUTES OF EVIDENCE,

AND APPENDIX.

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